

Application Number: 16/10792 Full Planning Permission

Site: 13B JUNCTION ROAD, TOTTON SO40 9HG

Development: Use as dwelling; associated external alterations (retrospective)

Applicant: Mr Harding

Target Date: 02/08/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area, Town Centre Boundary

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

- 1. Special qualities, local distinctiveness and a high quality living environment
- 3. Housing
- 4. Economy
- 6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- CS20: Town, district, village and local centres
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

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 - Housing Design, Density and Character
 SPG - Totton Town Centre - Urban Design Framework
 SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 1 block of 4 flats; 1 retail unit; demolition of existing; access off Osborne Road (08/91992) refused 6/5/08
- 6.2 4 flats; cycle and bin store; demolition of warehouse (11/96713) - refused 3/5/11
- 6.3 Use of 13 Junction Road as 1 residential unit; associated alterations (15/10211) - prior approval refused 20/4/15

7 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council:- Recommend permission but would accept a delegated decision - do not believe proposal would be harmful to shop frontage or commercial interests.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer:- No objection
- 9.2 Land Drainage:- No comment
- 9.3 Southern Gas Networks:- Advise of site's proximity to gas main

10 REPRESENTATIONS RECEIVED

None

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 £0.00.

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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The submitted application relates to a single-storey building which is attached to the rear of a retail shop at 13 Junction Road, but which is accessed from Osborne Road to the rear. The building in question was previously used as an ancillary storage space in connection with the retail shop. However, within the past 4 years the building has been converted for use as a single dwelling without planning permission. The conversion has entailed recladding the original building in timber and the insertion of new windows and doors. This application seeks to regularise the unauthorised change of use and building works.
- 14.2 The retail shop at 13 Junction Road is within a Secondary Shopping Frontage where Local Plan Part 2 Policy DM15 applies. This policy does not allow for residential development within the defined frontage. Because the application building is to the rear of the main frontage, and with rear access, it is not felt that there would be any conflict with Policy DM15, noting that the retained retail unit would still be of an adequate size to remain viable.
- 14.3 As the application building is not a frontage building, but is still within a town centre, it is felt that Policy DM16 is more relevant to this application than Policy DM15. Policy DM16 allows for residential development outside Primary Shopping Areas and Secondary Shopping Frontages

where the proposal does not result in the loss of retail, appropriate non-retail, or other employment or business uses, or sites which are capable of being satisfactorily used for alternative business or employment uses appropriate to a town centre location. In this case, the proposal has resulted in the loss of an ancillary retail use and therefore the proposal is not wholly consistent with Policy DM16. However, it is not felt this inconsistency would be so harmful as to justify refusal of the application because, as noted above, it is not considered that the change of use has compromised the frontage commercial use. Furthermore, Osborne Road, which the application building most closely relates to, is a mainly residential road, and therefore the residential conversion that has taken place is in keeping with the residential character of that road. The recent relaxation of permitted development rights for residential conversions also weighs heavily in favour of granting planning permission.

- 14.4 The dwelling that has been created is of a modest scale and appearance. It does not have any adverse impact on the amenities of adjacent properties. The dwelling does not have an especially attractive outlook and the external amenity area is small. However, given the site's town centre location, it is felt that the levels of amenity afforded to the proposed dwelling are adequate. Given the plot's small size, it is felt that permitted development rights for future extensions / outbuildings should be removed.
- 14.5 The external alterations that have been carried out to the building are considered to be sympathetic. They have resulted in an improvement to the original building, which was metal clad.
- 14.6 Given the nature and scale of the proposal and the existence of good public transport links and local amenities close by, the Highway Authority are satisfied that the change of use does not give rise to any adverse implications for highway safety.
- 14.7 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.

- 14.8 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.
- 14.9 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. In any event, in this particular case, the applicants have submitted a viability appraisal, which has enabled the Council's estates and valuation team to conclude (as part of a pre-application enquiry) that any affordable housing contribution would render the scheme unviable. Therefore, even without the government's latest guidance, it would be appropriate to waive the affordable housing contribution in this instance.
- 14.10 An application for a new dwelling would normally need to be subject to a condition requiring the applicant to secure appropriate habitat mitigation contributions in line with the requirements of Local Plan Part 2 Policy DM3. However, in this case, because the application is retrospective, and because the dwelling is already occupied, the matter needs to be resolved before planning permission is granted and not after. The applicant has been asked to enter into a Section 106 legal agreement to secure a habitat mitigation contribution of £2050 (which will need to be payable on completion of the agreement). If such an agreement is satisfactorily completed then the requirements of Policy DM3 would be satisfied. It is understood that the applicant is agreeable to entering into a legal agreement, although at the time of writing the legal agreement remains to be completed. It should be noted that no CIL payments are required in this instance, and there is therefore no conflict with CIL requirements.
- 14.11 Overall, the proposed development is considered to be an acceptable proposal. It would be a sustainable development that would be justified having regard to all relevant national and local policies, and the particular site circumstances. The development would not have any adverse impact on the amenities of the wider area. The affordable housing requirement can be reasonably waived, and subject to securing the requisite habitat mitigation contribution, the proposal can reasonably be recommended for permission.
- 14.12 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	
Financial Contribution	£7610	0	-£7610
Habitats Mitigation			
Financial Contribution	£2050		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	66.5	66.5	0	0	£80/sqm	£0.00 *
Subtotal:	£0.00					
Relief:	£0.00					
Total Payable:	£0.00					

*The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

15. RECOMMENDATION

That the Executive Head of Economy, Housing and Planning be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the completion, by 12th August 2016, of a planning obligation entered into by way of an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure appropriate habitat mitigation measures
- ii) the imposition of the conditions set out below.

BUT, in the event that the Agreement is not completed by 12th August 2016, the Executive Head of Economy, Housing and Planning be **AUTHORISED TO REFUSE PERMISSION** for the reasons set out below.

Conditions to be attached to any consent:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, or 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: In view of the physical characteristics of the plot, the Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Reason(s) for Refusal:

1. The recreational impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation would not be adequately mitigated and the proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites, contrary to Policy DM3 of the New Forest District 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, as the application was acceptable as submitted (subject to completion of the necessary Section 106 legal agreement) no specific further actions were required.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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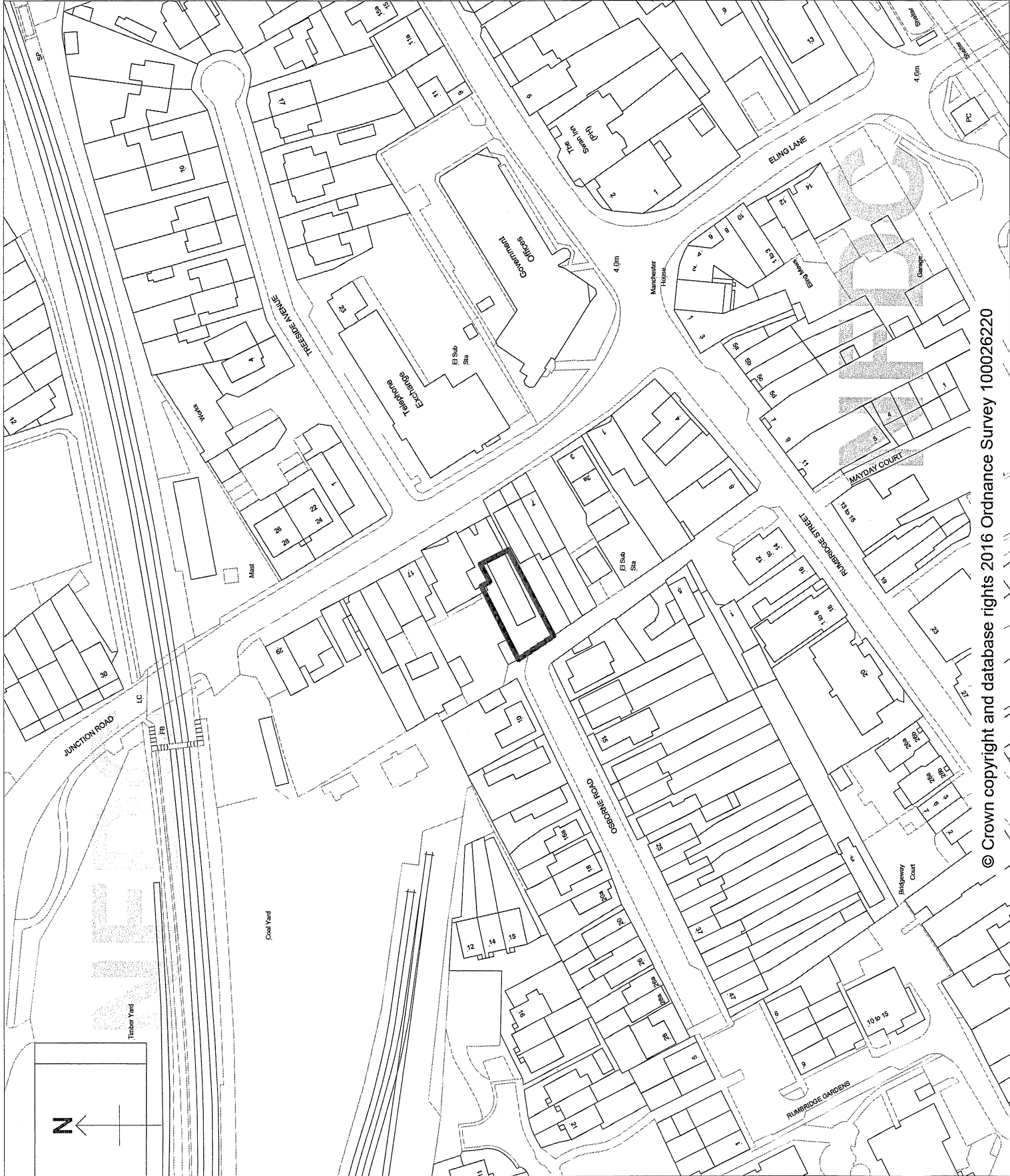
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**Planning Development
Control Committee
August 2016**

Item No: 3aa
13B
Junction Road
Totton
16/10792
SU3613

Scale 1:1250

N.B. If printing this plan from
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scale.



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