

Application Number: 16/11064 Full Planning Permission

Site: CHUCKLES DAY NURSERY, 2 NORTHLANDS ROAD,
TOTTEN SO40 3GZ

Development: Use as residential dwelling

Applicant: Mrs Hall

Target Date: 19/10/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

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

Policies

CS1: Sustainable development principles
CS2: Design quality
CS8: Community services and infrastructure
CS10: The spatial strategy
CS24: Transport considerations

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 - Parking Standards
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

Change of use to day care nursery (64771) Granted with conditions on the 9th December 1998

7 PARISH / TOWN COUNCIL COMMENTS

Totton and Eling Town Council: Recommend permission and would accept a delegated decision. The property was converted into a nursery in 1998 and it is proposed to return to its original use which is a residential dwelling. The area surrounding the site is predominantly residential and despite losing the employment, this property is clearly suitable as a dwelling.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

None

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' 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 £8,532.75.

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 site comprises a detached building, which was used as a day nursery until July 2016. The premises is situated on the corner of Water Lane and Northlands Road. The property was originally used as a single dwelling, and was changed to a day nursery following planning permission being granted in 1998. There is a good sized gravel car parking area to the front of the site with an outside play area to the side and rear, which was used in association with the day nursery. It is understood that the existing day nursery accommodated up to 16 children aged to 5 years and there were up to 5 people employed.
- 14.2 The site lies within a predominately residential area, although there is a public house and convenience shop in the vicinity of the site. Water Lane is a relatively busy road that leads to the town centre of Totton, whereas Northlands Road is a quiet residential street. There is a bus stop immediately opposite the site.
- 14.3 This planning application proposes the change of use from a day nursery (Use Class D1) back into a single residential dwelling (Use Class C3). No external alterations are proposed and the outside play area would return to residential garden use. Car parking would remain unchanged.
- 14.4 Starting with the policy position, Core Strategy Policy CS8 relates to community services and states that there will be a presumption against any development that involves the loss of education, health, social and other publicly provided community services, except where it is part of a service providers plans to provide improvement local services in equally accessible locations.
- 14.5 In this case, given the consented use of the building is a day nursery, it is now a community facility and therefore the proposal would conflict with Policy CS8.

- 14.6 The applicant does not seek to re-locate the business and effectively the business will cease. Accordingly the proposal will not provide an alternative facility in an equally accessible location. The applicant has marketed the premises as a children day nursery, but has had no interest.
- 14.7 In assessing this case, because the original use of the building was a residential dwelling and given the predominately residential nature of its surrounding area, a departure from policy could be justifiable. Indeed the use of the premises as a residential property would be appropriate in this location in which it would create a better relationship with the neighbouring properties given that there will be a reduction in the level of activity on the site and associated traffic movements.
- 14.8 Within the vicinity of the site, on the Totton College campus, there is an existing children's day nursery which provides places for up to 40 children aged up to 5 years. The day nursery at Totton College is provided within a purpose built building with outside areas and other facilities. It is considered that the Totton College facility is located on an appropriate site amongst existing education facilities with car parking areas and outside play areas away from residential properties.
- 14.9 In balancing out the issues, while it is considered that the proposal conflicts with Core Strategy Policy CS8, given that the proposal seeks to revert the building back to its original use, the fact that the premises has been marketed without any interest and that there is a larger children's day nursery already operating in close proximity to the site at Totton College, the proposal would be acceptable.
- 14.10 With regard to residential amenity, it is considered that the use of the premises as a dwelling would have less activity compared to the children's day nursery, which would be a significant improvement to the existing neighbouring residential properties.
- 14.11 On 28th November 2014 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 proposal to make affordable housing provision.

- 14.12 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.
- 14.13 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.
- 14.14 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.
- 14.15 In conclusion it is considered that the proposal does not accord with Policy CS8 which seeks to retain existing community facilities. However, in this case it is considered that a departure from policy would be acceptable given the overriding benefits that would be created by reverting back to a residential use.
- 14.16 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.

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	102.33		102.33	102.33	£80/sqm	£8,532.75 *

Subtotal:	£8,532.75
Relief:	£0.00
Total Payable:	£8,532.75

** 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

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: 001, Location Plan.

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.

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

2. In discharging condition No.3 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here
<http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee
October 2016**

Item No: 3r
Chuckles Day Nursery
2 Northlands Road
Totton
16/11064
SU3513

Scale 1:1250

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

