

Application Number: 18/10176 Full Planning Permission

Site: OAK NURSERY SCHOOL, 11 LONG LANE, HOLBURY,
FAWLEY SO45 2LF

Development: Use as residential

Applicant: Mrs Lohur

Target Date: 21/05/2018

Extension Date: 15/06/2018

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Vivienne Baxter

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
- 6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS8: Community services and infrastructure
- CS15: Affordable housing contribution requirements from developments
- CS25: Developers contributions

HSE Consultation Zone

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
- Achieving Sustainable Development
- NPPF Ch. 6 - Delivering a wide choice of high quality homes
- Section 197 Trees
- Town and Country Planning Act 1990

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

6.1 90/NFDC/45433 - change of use of dwelling to nursery school. Granted 31.8.90

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: recommend permission

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer - no objection

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive a New Homes Bonus of £1224 in each of the following four years, subject to the following conditions being met:

- a) The dwellings the subject of this permission are completed, and
- b) The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District.

Based on the information provided at the time of this report this development has a CIL liability of £0.

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 other than requesting a corrected site location plan, the application was acceptable as submitted and no specific further actions were required.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Holbury opposite the Fawley Oil Refinery. Originally built as a chalet bungalow, the property is presently vacant following the closure of the former private nursery last year. It has a large graveled forecourt with statutorily protected oak tree to the front boundary and enclosed rear garden. There is a residential bungalow to the north and dentist's surgery to the south.
- 14.2 The proposal entails the conversion of the property back into a single residential dwelling with three bedrooms. No physical alterations are proposed to the external appearance of the property although the toilets at ground floor level would be converted to a shower room, as would the changing facilities to the first floor.
- 14.3 In principle, new residential development is acceptable within the built up area although given the current lawful use of the property, consideration also has to be given to the loss of the nursery which would conflict with the desire to retain such uses under policy CS8. In order to justify this change, it is understood that the nursery closed around 12 months ago and while the service provider did not have any plans to improve provision elsewhere in the locality, alternative nurseries were found for the children in the local area suggesting that local provision did not necessarily require further improvement. There are at least 4 other similar premises within 3 miles of this site and on this basis, it is not considered that the loss of this particular facility would adversely affect the overall provision in the area.
- 14.4 Given the lack of external alterations, the protected tree will not be affected with the proposal and the site contains more than enough space for adequate parking and turning facilities.

14.5 With regard to residential amenity, the property is separated by 20m (at ground floor level) from chalet bungalows to the rear - a situation which has existed for several years. First floor windows will be further apart than this and there is not considered to be any adverse impact on residential amenity through the change of use.

Other material considerations

14.6 The level of housing need in the District is sufficiently above the level of housing supply to know that a five year supply of housing land is currently unavailable. This situation will be addressed through the emerging local plan, but until the new Local Plan is adopted, paragraph 14 of the NPPF advises that planning permission for housing development should normally be granted unless any planning harm identified would "*significantly and demonstrably outweigh the benefits*". This is known as the 'tilted balance' in favour of sustainable development. In this case, it is considered that the adverse impacts of development set out above do not significantly and demonstrably outweigh the benefits and therefore the tilted balance in favour of granting permission is a material consideration in assessing this application.

14.7 In accordance with the Habitat Regulations 2017 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.

14.8 With regard to affordable housing, Government Guidance issued in 2014 advises that contributions should not be sought from developments of 10 units or less. While the need for affordable housing in this District is pressing, this in itself does not give rise to the sort of circumstances that can be considered exceptional. On this basis, no affordable housing or tariff style contributions would be sought from this proposal, in accordance with National Planning Practice Guidance but contrary to the provisions of Policy CS15 of the Core Strategy.

14.9 The proposal would bring an empty property back into an appropriate use and approval is recommended.

14.10 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		
Financial Contribution	0		
Habitats Mitigation			
Financial Contribution	£4,706		

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: site location plan, revised block plan (received 23/04/18) existing and proposed ground and first floor plans.

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 other than requesting a corrected site location plan, the application was acceptable as submitted and 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:

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New Forest DISTRICT COUNCIL

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Planning Development Control Committee

June 2018

Item No: 39

Oak Nursery School
11 Long Lane
Holbury Fawley
18/10176

Scale 1:1250

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

