
APPLICATION NO.	22/00040/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	28.01.2022
APPLICANT	Mr And Mrs Metcalfe
SITE	Dandys Ford Fishery, Dandys Ford Lane, Sherfield English, SO51 6DT, SHERFIELD ENGLISH
PROPOSAL	Convert tearoom/storage building to a dwelling including installation of dormer windows
AMENDMENTS	None
CASE OFFICER	Nathan Glasgow

Background paper (Local Government Act 1972 Section 100D)
[Click here to view application](#)

1.0 INTRODUCTION

- 1.1 The application is presented to the Southern Area Planning Committee as the recommendation is permission for a scheme that is a departure to the Local Plan, and has received a public objection.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is located within Dandys Ford Fishery, an extensive fishing lake located on Dandys Ford Lane.

3.0 PROPOSAL

- 3.1 Convert tearoom/storage building to a dwelling including installation of dormer windows.
- 3.2 Previous planning history (as shown below) has confirmed that the prior approval for the conversion to a dwelling is not required by the Council. Therefore, the works proposed are for the operational development to facilitate that conversion.

4.0 HISTORY

- 4.1 **21/02399/PDMAS** – Prior Notification under Class MA – Change of use from tearoom (Class A3) to single (C3) dwellinghouse – Prior approval not required
- 4.2 **18/02363/FULLS** – Change of use of part of a tearoom and storage building to a rural worker's dwelling – Refused
- 4.3 **16/01029/FULLS** – Create entrance from Dandy's Ford Lane and provide hardstanding car parking area for up to 8 cars for the members with fencing, gate and new earth bank (Retrospective) – Permission subject to conditions
- 4.4 **14/02464/FULLS** – Erection of three holiday cabins – Permission subject to conditions

5.0 **CONSULTATIONS**

5.1 **Ecology** – No objection subject to conditions

5.2 **Natural England** – Additional information required regarding impacts to Mottisfont Bats and a management/monitoring plan for the installed package treatment plant

6.0 **REPRESENTATIONS** Expired 13.09.2022

6.1 **Sherfield English Parish Council** – No objection

6.2 **Hillside, Doctors Hill** – Objection

“A[n] explicit condition should be placed on any permission to restrict light spill and external lighting in accordance with Bat Trust best practice guidelines (as supported by Natural England) in order to reduce any impact on wildlife, in particular bats as these are a protected species known to live and forage in this area and the property is also within 7.5km of the Mottisfont Bats SAC. It would be best practice to request ecological mitigation and enhancement measures to compensate for the change of the building from limited commercial use to full time residential”.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Town and Country Planning Act 1990 – Section 70(2)

Planning and Compulsory Purchase Act 2004 – Section 38(6)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2: Settlement Hierarchy

COM12: Existing Dwellings and Ancillary Domestic Buildings in the Countryside

LE16: Re-use of Buildings in the Countryside

E1: High Quality Development in the Borough

E5: Biodiversity

LHW4: Amenity

T1: Managing Movement

T2: Parking Standards

7.3 Neighbourhood Plan

Sherfield English Neighbourhood Plan – Designated Area

7.4 Supplementary Planning Documents (SPD)

Sherfield English Village Design Statement

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Impact on character and appearance of the area

- Impact on biodiversity
- Impact on amenity
- Impact on highway safety

8.2 Principle of development

The application site is located within the countryside, as defined by the Local Plan. Policy COM2 of the Local Plan seeks to restrict development to areas of settlement, unless it is considered either a) appropriate to be located in the countryside or otherwise b) is essential to be located in the countryside.

8.3 The application is not supported by any further information in regards to policy compliance, although it is suggested that the scheme is in accordance with Policy LE16 – Re-use of buildings in the countryside.

8.4 Policy LE16 – Re-use of buildings in the countryside

The re-use of buildings in the countryside for commercial use (including tourist accommodation) will be permitted provided that:

- a) The building is structurally sound and suitable for conversion without substantial rebuilding, extension or alteration; and
- b) The proposal would not result in the requirement for another building to fulfil the function of the building being converted; and
- c) The proposed use is restricted primarily to the building; and
- d) Development would lead to an enhancement of its immediate setting

The re-use of buildings in the countryside for residential use will be permitted provided, in addition to criteria a)-d) above, that:

- e) The proposal is for occupational accommodation for rural workers; or
- f) It is demonstrated that every reasonable attempt has been made to secure commercial use (including tourist accommodation); or
- g) There is no other means of protecting and retaining the building which is of architectural or historic merit.

8.5 Due to the lack of policy information provided in support of the application, the following is a brief overview of the scheme's compliance with Policy LE16.

8.6 *Is the building structurally sound?*

The tearoom has been in consistent use between the period of construction in 2003 until January 2021, and its appearance and age would suggest that, in the absence of a structural survey, that the building is structurally sound and suitable for conversion.

8.7 *Is another building required subject to this conversion?*

There are no other buildings proposed to be built, converted or similar.

8.8 *Is the proposed use restricted primarily to the building?*

The application seeks conversion works to the existing building and as such, the use is restricted primarily to the existing building.

- 8.9 *Would the development lead to an enhancement of its immediate setting?*
The proposed external changes amount fenestration detailing and a new dormer window. The siting of the building is such that there are limited public views, and it is considered that the scheme would result in a neutral impact upon the immediate setting.
- 8.10 *Is the proposal for occupation accommodation?*
No, the scheme is not for occupation accommodation and as such, criterion e) is not relevant.
- 8.11 *Has it been demonstrated that every reasonable attempt has been made to secure a commercial use?*
There is no information within this application which refers to what attempts have been made to secure a commercial use. Evidence was provided within the recently refused application of 18/02363/FULLS but this has not been submitted within this application. The scheme does not accord with criterion f).
- 8.12 *Is the building of architectural or historic merit?*
The existing building is not of architectural or historic merit.
- 8.13 The scheme is not considered to accord with the provisions as set out in Policy LE16 of the Revised Local Plan, and as such, must be assessed against policy COM2b of the Revised Local Plan, taking into consideration the fact that the proposal is for an unrestricted dwelling the proposal fails to accord with Policy COM2 of the RLP.
- 8.14 *Fall-back Position?*
Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission be determined in accordance with the development plan unless considerations indicate otherwise. This is echoed by the National Planning Policy Framework. In addition, the RLP is considered an up-to-date development plan which is not silent on development within the countryside and thus full weight must be given to it. However, it is considered that in this instance, there are other material considerations that must be taken into consideration in the determination of the application.
- 8.15 Although the building that is the subject of this application is at present a tearoom, it does have previous permission under the prior approval facility to be converted into a residential building. Therefore, it is considered that there is a reasonable prospect of a residential unit on site, whereby Policy COM12 would apply if the proposals were submitted once the permission has been implemented. There is no practical reason that the permission could not be implemented and the fall-back position therefore weighs significantly in favour of the principle of permitting the proposed development, contrary to the provisions of the Test Valley Borough Revised Local Plan (2016).

- 8.16 Along with considering the likelihood of the extant permissions being implemented, it is also necessary to assess the impact of the proposed scheme against the permitted scheme, to determine whether or not there would be any significant impacts over and above the permitted scheme. This methodology is reflected in previous appeal decisions and, in relation to this proposal, is discussed further below.
- 8.17 Impact on character and appearance of the area
The existing building is set within the wider fisheries site, and bounded from Dandys Ford Lane by extensive foliage and vegetation, and there are no local public rights of ways which afford public visibility of the site. Though the application under consideration does include dormer windows, it is considered that these are well designed and relate well to the existing property and thus do not have a materially greater impact on the character and appearance of the area when considered against the extant prior approval consent and is therefore in accordance with Policy E1 of the Revised Local Plan.
- 8.18 Impact on ecology
On-site ecology
The building to be impacted by the proposed development appears to have been around 10 years old. As such, the Council's Ecologist considers there to be no reasonable likelihood that bats would be present and affected raises no specific concerns over this proposal. Notwithstanding this, it is advised by the Ecologist that, in accordance with Policy E5 of the Revised Local Plan, that opportunities to incorporate biodiversity within proposed development should be encouraged. A condition is recommended to reflect this requirement as set out by the Ecologist, and subject to the details of the condition being provided, the scheme would accord with Policy E5 of the Revised Local Plan.
- 8.19 Off-site ecology
The scheme would provide one additional dwelling and as such is subject to the New Forest SPA mitigation framework and an assessment of nitrate neutrality.
- 8.20 New Forest SPA
The applicant has confirmed that they intend to enter a legal agreement to provide the required mitigation to potential impacts to the New Forest SPA. The legal agreement is currently in draft format and includes the provision of the New Forest SPA payment.
- 8.21 Southampton and Solent SPA
Due to impacts of new dwellings upon the Southampton and Solent SPA, an assessment of nitrate neutrality is required. As above, the applicant has sought to enter a legal agreement and purchase credits from Roke Manor Farm, who have been removing agricultural (pig farming) land from agricultural use. Natural England have no objection to the scheme, subject to the submission of a maintenance and monitoring plan for the package treatment plant that has been proposed. This has been submitted, and a condition is recommended to reflect this.

8.22 Mottisfont Bats SAC

The application site is within 7.5km of the Mottisfont Bats SAC foraging area. Natural England have requested an appropriate assessment is carried out to consider the impacts of this development upon the SAC; this has been completed and concludes that there is no harm to the SAC.

8.23 Subject to the completion of the legal agreement covering mitigation to both the New Forest SPA and the Southampton and Solent SPA, the scheme is considered to accord with Policy E5 of the Revised Local Plan and the Habitats Regulations 2017.

8.24 Impact on amenity

As assessed above, the existing building is located within the fishery complex and as such, there are no local neighbouring properties within proximity of the site. The scheme accords with Policy LHW4 of the Revised Local Plan.

8.25 Impact on highway safety

The existing layout of the site (in terms of access and parking) is to be retained, and is not considered to result in any harm to highway safety. The scheme accords with Policies T1 and T2 of the Revised Local Plan.

8.26 Sherfield English Neighbourhood Plan (NP)

The Sherfield English NP has not yet been 'made' and it has been confirmed by the Council's Policy Team that the NP should be afforded limited weight in the determination of planning applications at this stage.

8.27 Sherfield English Village Design Statement (VDS)

Though the proposal does include the installation of dormer windows, these are well designed and set on the existing roof slope and it is considered that the proposal does not result in any visual changes to the setting of the area. The VDS does not have any guidance notes in which this form of development is discouraged, and therefore it is considered that the scheme is not contrary to the Sherfield English VDS.

8.28 Planning balance

The proposal would be contrary to the development plan in that the conversion of the building would result in a new residential dwelling on a site designated as countryside in the Test Valley Borough Revised Local Plan (2016).

8.29 The proposed development does not comply with policies LE16 or COM12, due to the building conversion not proposed for occupational accommodation, with no reasonable attempt (as part of this application) made to secure a commercial use. Furthermore, whilst an extant approval exists, this is yet to be implemented. As a result, the proposal for a dwelling in the countryside is contrary to Policy COM2.

8.30 Notwithstanding the above, there are material planning considerations that must be taken into account when determining this application and these must be weighed against the conflict with the development plan.

8.31 The report details the fall-back position of the applicant, who has demonstrated that the residential conversion of the building under the PDMA application is more than a theoretical prospect. The fall-back position that the building can be redeveloped under extant permissions is a consideration that weighs significantly in favour of the proposal now submitted.

8.32 In addition to this, the scheme would also provide an additional unit of accommodation. The Council is providing in excess of the minimum requirement of its 5 year housing land supply and a single unit is not considered to be substantial enough to merit outright support to the housing provision. It is nonetheless a small benefit when assessed in the planning balance.

8.33 Despite not being an essential form of development located within the countryside, the planning balance weighs in favour of the proposed development.

9.0 **CONCLUSION**

9.1 The proposed development is a departure from the Test Valley Borough Revised Local Plan (2016) in that it is contrary to policy COM2. However, the conversion of the building on the site has prior approval and is clearly more than a theoretical prospect. The likely residential use of the site is a significant factor in determining this application and weighs significantly in favour of granting permission. Considering this, coupled with the proposals not resulting in any adverse impacts on the character and appearance of the surrounding area, amenity, highways or ecology, permission is recommended subject to conditions, contrary to the provisions of the Development Plan.

10.0 **RECOMMENDATION**

Delegate to Head of Planning and Building to:

- **Complete a legal agreement to secure off site mitigation to achieve nitrate neutrality.**
- **The provision of a financial contribution towards the New Forest Special Protection Area (SPA) and;**

then PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.**
Reason: To comply with the provision of 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 hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans/numbers:**
Location Plan - 01
Proposed Ground/First Floors - DFF.PD.01
Existing/Proposed Ground Floor - DFF.PD.02
Proposed First Floor - DFF.PD.03
Proposed Section - DFF.PD.04
Proposed Elevations - DFF.PD.05
Proposed Elevations - DFF.PD.06

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3. The external materials to be used in the construction of all external surfaces of the development hereby permitted shall match in type, colour and texture those used in the existing building.**

Reason: To ensure a satisfactory visual relationship of the new development with the existing in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.

- 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwellinghouse hereby permitted or within its curtilage.**

Reason: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM2.

- 5. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 120 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.

- 6. Prior to reaching DPC level, a detailed scheme of biodiversity enhancements to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall subsequently proceed in accordance with any such approved details.**

Reason: To enhance biodiversity in accordance with NPPF and the Natural Environment and Rural Communities Act 2006 and with Policy E5 of the Test Valley Borough Revised Local Plan (2016).

- 7. Prior to the installation of any external lighting, a detailed lighting strategy for the construction and operation phase of the works shall be submitted to and approved in writing by the Local Planning Authority. Works shall subsequently proceed in accordance with any such approved details, with the approved lighting strategy maintained in perpetuity.**

External lighting shall follow best practice guidelines outlined by the Bat Conservation Trust and the Institute of Lighting Professionals (Guidance note 08/18 Bats and artificial lighting in the UK).

Reason: To prevent disturbance to protected species in accordance with the National Planning Policy Framework and the Test Valley Borough Revised Local Plan (2016).

- 8. Development shall proceed in accordance with the submitted Monitoring and Maintenance instructions for One2Clean wastewater treatment system, unless otherwise approved in writing by the Local Planning Authority.**

Reason: To ensure the ongoing maintenance of the required treatment plant in order to appropriately mitigate against nitrates, in accordance with Policy E5 of the Test Valley Borough Revised Local Plan (2016).

Notes to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
 - 2. Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended). All work must stop immediately if bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist.**
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