



Appeal Decision

Hearing held on 10 May 2024

Site visit made on 10 May 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/L1765/W/24/3337231

Moldon Farm, Bullington Lane, Sutton Scotney, Hampshire, SO21 3LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Wenman against the decision of Winchester City Council.
 - The application Ref is 23/00366/FUL.
 - The development proposed is demolition of existing agricultural buildings and a dwelling, extension of the existing mobile home site to accommodate 29 additional mobile homes, associated parking, a package sewage treatment plant and reed bed.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

3. Prior to the hearing, the Council confirmed that it wished to withdraw the fifth reason for refusal (RfR) in relation to the effects on the local highway network and shortfall in parking provision. I have assessed the appeal on this basis.
4. The address of the appeal site is listed as Moldon Farm but the name of the existing mobile home site to which the extension is proposed is 'Wessex Park'.
5. The description of development refers to mobile homes. Park homes are residential mobile homes, installed on a park, which is what is proposed by this scheme. In the interests of clarity, I hereafter use the term 'park home' throughout this decision.

Main Issues

6. The main issues are:
 - whether the proposal accords with the development plan in terms of its location and nature;
 - whether the proposed units would constitute affordable housing;
 - the effects of the proposal on biodiversity, including protected species; and
 - the effects of the proposal on the Solent Protected Sites.

Reasons

Location and nature of development

7. Wessex Park comprises around 33 park homes and lies adjacent to an existing dwelling, some aged farm buildings and agricultural land. Wessex Park is located outside of the settlement boundary of the nearest village, Sutton Scotney by some 500 metres and is connected by continuous footways.
8. The development plan includes two key documents: Local Plan Part 1 – Joint Core Strategy (LPP1), adopted 2013 and the Local Plan Part 2: Development Management and Site Allocations (LPP2), adopted 2017. The former contains the higher level strategy for development in the plan area, and the latter contains the allocations and more detailed policies against which development proposals must be assessed. If any conflict arises between the policies, then it must be resolved in favour of the document which most recently became a part of the development plan, i.e., in this case, policies within LPP2.
9. The three policies cited in RfR1 relating to the principle of development are LPP1 Policies DS1 and MTRA4 and Policy DM1 of LPP2. LPP1 Policy DS1 refers to the overarching strategy for development, although has been partly superseded by LPP2 in terms of numbers and trajectory. The strategy directs development towards Winchester first, then to the strategic urban extensions, with a lesser proportion to be delivered in the named market towns and rural area. Policy DM1 of LPP2 sets out that development will be permitted within the defined boundaries of settlements, including Sutton Scotney, where it accords with the development plan, and that otherwise, development countryside policies will apply and only development appropriate to a countryside location will be permitted as specified in Policies LPP1 MTRA4, MTRA5 and policies DM10 – DM13 of LPP2.
10. As none of the LPP2 Policies DM10 – DM13 are specific to the proposal, and neither is the policy relating to traveller sites, LPP1 Policy MTRA4 is the most relevant policy. It states that outside of the built up areas, the Council will only permit development which has an operational need for such a location; involves the reuse of existing rural buildings for employment, tourist accommodation, community use or affordable housing; expansion or redevelopment of existing businesses; or, small scale sites for low key tourist accommodation appropriate to the site, location and the setting. As the proposal is not any of the aforementioned types of development, it conflicts with Policy MTRA4.
11. On the basis of the above, the proposal conflicts with the current development plan in terms of its location and nature. As the main parties agree that the emerging development plan is not yet capable of attracting weight in the assessment of this appeal, the starting point for a determination is the current development plan.
12. On the matter of whether the current development plan is silent on the nature of the development proposed, I am clear that it is not. Whilst the development plan documents interchangeably use the words houses, housing and dwellings for any form of housing units, and none specifically mention park homes or mobile homes for the settled community, they needn't do so. As supported by

the approach outlined in the Wenman¹ case, the strategy for dealing with park homes is the same as for other forms of housing, i.e., through LPP1 Policy DS1 and MTRA1 – MTRA4, LPP2 Policy DM1 through to DM13, where relevant. When taken as a whole, the development plan strategy for the location of housing of any type is clear.

13. In terms of whether Policy MTRA4 is out of date due owing to its inconsistency with the National Planning Policy Framework (the Framework), I disagree. Whilst it is starting to show its vintage in terms of the need to resolve any conflicts between it and policies which became part of the development plan more recently, i.e., LPP2 DM1 and DM10 – DM13, in favour of the latter, it is still generally in accordance with the thrust of the Framework. Rural housing is provided for within the development plan and the absence of a specific policy for 'park homes' or 'caravans' and continued reliance on a settlement boundary approach has no consequence for its general accordance with the Framework based on the evidence before me and at the time of writing.

Affordable housing

14. LPP1 Policy CP3, requires 40% affordable housing from all developments which increases the supply of housing in the district. This is subject to the usual caveats on economic viability and where an offsite contribution might better meet priority housing needs.
15. Though it is stated that the 29 proposed park homes would be affordable housing, they would only be available to purchase on the open market. There would be no discounted sale price or either shared ownership or affordable rent tenure restrictions or other eligibility clauses by way of legal obligation. The provision of park homes would be unlikely to materially reduce numbers on the Council's affordable housing need registers. For this first reason, in my view, the park homes would not constitute an affordable housing product as recognised through accordance with the definition of such in the Framework.
16. The other assertion made is that because park homes have values so far below the typical value of a 2-bed bricks-and-mortar house, that they should be recognised as an affordable form of housing. In this case, the submitted data² shows that a typical 2 bed park home price for the area is around £217,483 and that the typical 2 bed dwelling price for the same area is around £416,703. I also note that the appellant's evidence³ contradictorily indicates that the cost of a high end park home alone could be as much as £400,000. The same evidence goes on to state that park homes are unlikely to be mortgageable, thus meaning that occupiers need the capital to acquire the park home outright.
17. Whilst I accept that park home values are typically lower than that of bricks and mortar housing, factors such as their obvious differences and more limited appeal to a generally older demographic also need to be factored into account. Park homes could be made a truer fit to the definition of an affordable home by restriction to at least a 20% discount of their respective local market values, rather than that of a bricks and mortar equivalent, or Policy CP3 could operate

¹ Wenman v The Secretary of State for Communities and Local Government (1) Waverley Borough Council (2) [2015] EWHC 925

² Appellant appendix A8 – Wessex Park + 5 miles (undated)

³ Page 5 - Assessment of provision of park homes within Winchester Borough Council and Test Valley Borough Council – January 2024

to meet the priority needs by securing a proportionate offsite contribution. However, this scheme offers nothing of the sort.

18. I acknowledge that my approach differs from that adopted by the Inspector in the appeal decision⁴ cited by the appellant in which an affordable housing provision was not sought. However, it is a matter of judgement, and on the evidence before me, the view I reach is that the park homes would not truly constitute affordable housing.
19. In view of the above, the proposal would conflict with, in particular, Policy CP3 of LPP1 which is clear in its wording and intent to secure 40% affordable housing from all development which increases the supply of housing.

Biodiversity

20. A Preliminary Ecological Appraisal⁵ and Biodiversity Net Gain Report (PEA) was submitted with the appeal, having not been undertaken prior. The PEA identified that the buildings to be demolished included a bat roost and that there were potential habitats for reptiles that would be lost to the development. The PEA also recommends that an internal inspection is undertaken for barn owls and that a precautionary working method statement would be needed for great crested newts.
21. The PEA indicates that a number of bat emergence surveys will be needed that can be undertaken from May 2024 until September 2024 and that a mitigation licence may be required to demolish the building, depending on the outcome of the emergence surveys. In terms of the reptile surveys, a suite of surveys was recommended for which the earliest commencement was April 2024. As at the time of the hearing, no surveys had yet been undertaken. During the hearing, it was also agreed, despite the conclusions of the PEA, that it would be reasonable to undertake a dormouse survey to inform the understanding of the baseline site biodiversity value.
22. In terms of biodiversity net gain (BNG), the proposal was exempted from specifically requiring a 10% enhancement due to the timing of the submission of the application. However, Policy CP16 of LPP1 requires a degree of enhancement in any event so the PEA makes recommendation for provision of hedgerows and creation of neutral grassland on adjoining land owned by the appellant. The parties were in agreement with the principle of using a condition to secure more general biodiversity enhancements.
23. However, the absence of the surveys that help to inform an understanding of the site's value for protected species is not a matter that can be left to condition. The Conservation of Habitats and Species Regulations 2017, as amended (Habitats Regulations), require that I give consideration to the derogation tests with particular regard to the granting of a bat mitigation licence. The absence of the requisite survey effort means that I do not know the baseline situation and cannot make any reasoned judgements about the full effects of the proposal or what mitigation may be needed. I can only reach a similar conclusion in respect of other species for which necessary surveys are absent.

⁴ Appeal decision ref Wisteria Park

⁵ Preliminary Ecological Appraisal – RSK Biocensus dated November 2023

24. Therefore, in the absence of evidence to the contrary, I find that the proposal would have a harmful impact on protected species and the biodiversity value of the site, contrary to Policy CP16 of LPP1. This Policy requires that development which maintains, protects and enhances biodiversity, avoids adverse impacts, or if unavoidable, ensures that impacts are appropriately mitigated, with compensation measures used only as a last resort.

Solent Protected Sites

25. The site lies within the catchment area that passes into the Solent. The Solent hosts many Protected Sites⁶, designated under the Habitats Regulations for their specific qualifying features, including aquatic plants, the water environment and the multiple overwintering bird species.
26. In short, levels of nitrogen and phosphorus from various sources are reaching the protected sites with negative consequences, harmful to their integrity. As a result, the nutrient input from changes in use of land, increases in foul drainage outflows and other related developments that drain into the protected sites must be assessed and found not to add to the existing nutrient burdens.
27. The existing site comprises a dwelling and around 33 park homes which are apparently served by three separate septic tanks. The proposal would involve the demolition of the existing dwelling but the creation of 29 park homes, so a net addition of 28 park homes. The potential effect on integrity of the Solent Protected Sites from this scheme would result from changes in nitrogen levels arising from the addition of new homes. To this end, the intention is to replace all three septic tanks with a site-wide package treatment plant (PTP). The main parties and Natural England (NE) agree that the principle of replacing septic tanks with a package treatment plant of higher efficiency could create reductions in the nitrogen output from the site with associated environmental benefits, despite the increased number of units.
28. The appellant submitted updated existing and proposed nutrient budgets on the latest versions of the Nutrient Budget Calculators and these were considered at the hearing. In an earlier response, NE made it clear that the appellant had failed to identify which particular PTP would be installed. Despite earlier evidence detailing that it would be a Klargester brand PTP, no specific model has been identified, thus the efficiency rating details are an unknown quantity. Similarly, there has been no detail of the management and maintenance regime for the PTP that was also requested by NE.
29. A number of other entries in the latest budget calculators are unclear to me. The 'As Existing Caravans' spreadsheet records the existing system as a user defined PTP rather than as a septic tank/s, whereas the existing dwelling is shown as having a default septic tank. The occupancy rating has been shown as at 2 people per unit, without rationale for the deviation from a typical occupancy rating of 2.4 people. The proposed unit numbers are shown as at 62 units when it would be 61. Similarly, a higher water usage of 120 litres per person per day (l/p/d) has been used for both existing and proposed scenarios than is typically permissible at 110 l/p/d. Changing the inputs on any of the above can dramatically alter the overall outcome either way. As indicated, with

⁶ Solent Maritime Special Area of Conservation, Solent and Dorset Coast SPA, Solent and Isle of Wight Lagoons SAC, Solent and Southampton Water SPA and RAMSAR site, Chichester and Langstone Harbours SPA/RAMSAR, Portsmouth Harbour SPA/RAMSAR.

an absence of detail on the specific PTP and limited confidence in the data, I cannot be certain that the efficiency rating is correct to assume that the overall budget is accurate.

30. The parties provided a condition in writing after the event which was to secure the implementation of the system prior to occupation of the caravans that would limit the nitrate budget to no more than 114.88Kg TN/yr and to limit the water usage to 110 litres per person per day.
31. However, owing to the residual uncertainty I have on the calculations and taking a precautionary approach, I am not satisfied that compliance with the condition is achievable or of what level nitrogen reductions would be made. In the circumstances, the scheme would harm the integrity of the Solent Protected Sites and thus fails to meet the expectations of the Habitats Regulations and Policy CS16 of LPP1 which seeks to protect sites of international, European, and national importance, and local nature conservation sites, from inappropriate development.

Other Considerations

Duties under the Housing and Planning Act 2016

32. Under the Housing and Planning Act 2016, the local housing authorities have a duty to consider the needs of people residing on sites on which caravans can be stationed and or on waterways where houseboats can be moored (where relevant). The Council, with dual function as housing and planning authority, considers this duty in the preparation of its housing needs assessments and development plan documents. Paragraph 63 of the Framework reiterates the need to reflect the needs of different community groups for housing of in a variety of sizes, types and tenures in planning policies.
33. The Council's Strategic Housing Market Assessment⁷ (SHMA) looks at the housing requirements for a range of community groups, including for those in need of affordable housing, older people, families, younger people, service families, students, wheelchair users and self and custom builders. It is noted that the Self-Build and Custom Housebuilding Regulations 2016 add specific requirements in relation to this particular group. There is nothing equivalent to this to promote the need to provide registers or cater for members of the settled community wishing to reside in caravans. It is also noted in the SHMA that the needs of travellers are to be dealt with separately.
34. The evidence provided of the adjoining authority, Test Valley⁸, indicates that its adopted local plan and current SHMA have not identified a need for park homes, in addressing either the housing needs of older people, or those of other types of households. It confirms that the SHMA process is that through which such needs would be identified.
35. The dated and relatively anecdotal evidence of the Council having engaged with the park home site providers in the production of its SHMA about the needs for park homes is noted. I also note that there is no countervailing evidence from the appellant to suggest that these site providers wish to proactively plan for growth to fulfil a need for pitches of which they have specific knowledge.

⁷ 2020

⁸ Council Appendix SO5 - Email dated 22 June 2021

36. Therefore, whilst there does not appear to be any tangible evidence of the Council identifying a need for park homes to meet the needs of a particular community group such as to warrant any particular allocations, it appears that the needs of all groups have been considered such that the Council has not failed in its statutory duties in this regard.

Need for park homes

37. Much of the evidence details the park homes being akin to bungalows with reference to wider studies that show that the social profile of occupiers is towards the retiree age of the spectrum. The appellant's Assessment⁹ also indicates that Hampshire's location and evidence of its continued ageing population will lead to a demand for park homes within Winchester and Test Valley. The proposal was submitted as an extension to a park home site without a specific reference to an intended age restriction for 55's and overs. However, the appellant offered to accept a condition to restrict the occupancy of the units to over 55's should I consider it necessary.
38. The Assessment identifies a total of 572 park homes in Winchester across 13 sites and says that this is the same number of sites and units as in 2020 when a previous version of this assessment was produced¹⁰. Contradictorily, it was stated at the hearing that the number of park homes had increased in the recent past but that this was through applications under either S191 or S192 of the Town and Country Planning Act, rather than through typical planning applications/appeals. It was indicated that the 12 park homes added to Wessex Park since 2015 had come into being through such a route¹¹ which may explain why the number of park homes at Wessex Park shown in the table at 6.1 of the appellant's Assessment is incorrectly shown as 20. As a general observation, this may indicate that this source of housing may not have been thoroughly explored and that these routes to intensification could have taken away from the participation of park homeowners/future occupiers in the plan-making processes.
39. The Assessment refers to a low vacancy rate, low turnover and an assumption that the current supply¹² provided in both Test Valley and Winchester meets the current demand for Park Homes, on the basis of an absence of evidence to the contrary. The Assessment then looks at population increase forecasts, looks at the subset of the population over 55 and older and projects that park home demand will grow at the same rate as the over 55's population increase. The conclusion reached is that the need for park homes in Winchester will be an additional 44 park homes by 2028 and a further additional 67 park homes by 2038. Whilst the Assessment seeks to discount the identified vacancies, it indicates that if they were taken into account, it would reduce the need to 34 park homes over the next five years.
40. I accept that Wessex Park has grown incrementally since 2015 by about a third of its original size through the S191/S192 route which is not reflected in the existing stock number. It is likely that the provision of those park homes has helped to meet past housing needs¹³. However, I do not agree with the

⁹ Assessment of provision of park homes within Winchester Borough Council and Test Valley Borough Council – January 2024

¹⁰ Not submitted as part of the current appeal

¹¹ References: 14/02797/CLEN and 14/01796/CLEN

¹² Current supply with the anomaly of the 13 extra units at Wessex Park, not identified in the Table (+13)

¹³ Even if those housing needs arose within Test Valley Borough area

relatively blunt assessment method applied by the appellant in this case as there is an element of double counting of the elderly population with the other methods of predicting more general housing needs that feeds into the SHMA and standard methodology for plan formulation purposes as detailed above.

Housing Supply Position

41. The main parties agree that due to the progress with the emerging development plan, paragraph 226 of the Framework is relevant and that the Council need only demonstrate a four year supply of housing land, rather than the typically required five years. The appellant agreed that the Council can demonstrate at least a 4.07 year supply, which prevents the engagement of the tilted balance under Framework paragraph 11 d).
42. My view is that the evidence base supports the Council's position that the supply well exceeds the 4.07 year figure offered by the appellant. Therefore, there is no shortfall in housing land that forms a consideration of such materiality that it pulls in favour of a grant of planning permission through the engagement of the tilted balance or otherwise.

Sustainability of location

43. Given that Sutton Scotney has a defined settlement limit within which infilling and other forms of development are acceptable under LPP1 Policies MTRA2 and MTRA3, it is a suitable location for new housing relative to the scale of the village. It has a range of everyday facilities, including open space, petrol filling station, shop, healthcare facility, village hall and public house. There is also a bus service which serves the village with stops in walking distance of the site which connect the site to outlying villages, towns and Winchester city. There are footways along the carriageway that link the site with the village amenities.
44. Given the distance between the site and Sutton Scotney, and the way in which occupants could reach the village on foot, cycle or car for short journeys, I consider that the site is not in an isolated location and, in my view, should be considered well related to the settlement of Sutton Scotney. Taken in the round with the relationship to the existing park, the location of the site does not weigh against the scheme.

Previously developed land (PDL)

45. The parties agree that approximately half of the site is PDL, including the existing dwelling, agricultural buildings and area of hardstanding which benefits from a lawful use for caravan storage.
46. The development plan has a limited base for supporting PDL reuse in the countryside, but I have noted the Framework's encouragement of the use of previously developed land on sites physically well-related to settlements¹⁴. The weight to be attached to this benefit should reflect the amount of the site that constitutes PDL.

Planning Balance

47. For the numerous reasons outlined above, the proposal conflicts with the development plan when taken as a whole.

¹⁴ Framework paragraph 89

48. I have not found that Paragraph 11 d) of the Framework is engaged in this case. Nonetheless, I have considered the benefits to the supply of housing from a net addition of 28 park homes and the associated economic contributions, both of a short term nature throughout the construction phase and longer term through the future occupiers' reliance on local facilities and services. These attract modest weight in favour of the scheme. There would also be some benefit from the partial reuse of PDL which attracts further limited weight in favour of the scheme.
49. The potential to secure some biodiversity enhancements and environmental benefit through reduction to nitrates is not so certain or adequately quantified by evidence in this case such that they can be weighed as a benefit in favour of the scheme.
50. As such, even when taken together with the other considerations advanced by the appellant, including caselaw, the Framework and offered planning conditions, the benefits do not outweigh the identified harms such that they collectively indicate that a decision should be taken other than in accordance with the development plan.

Conclusion

51. For the foregoing reasons, the appeal is dismissed.

H Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green	Green Planning Studio
Mr Michael Rudd	Kings Chambers
Ms Kim Oliver	Biocensus
Mr Charles Wenman	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Liz Young	Winchester City Council
Mr Stephen Opacic	Winchester City Council

DOCUMENTS

Document 1	Statement of Common Ground
Document 2	Updated list of planning conditions

DOCUMENTS SUBMITTED AFTER THE HEARING:

Document 3	Updated nitrates condition
Document 4	Appellant housing land supply update
Document 5	Council cost rebuttal
Document 6	Appellant final costs response