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## Appeal Decision

Site visit made on 4 February 2025

**by K Reeves BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 March 2025**

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**Appeal Ref: APP/W1715/W/24/3343675**

**Old Oak Farm, Winchester Road, Fair Oak, Hampshire SO50 7HD**

- 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 J Lomas against the decision of Eastleigh Borough Council.
  - The application Ref is F/23/96082.
  - The development proposed is removal of two mobile homes and accompanying buildings and replacement with two new self-build dwellings, creation of new paddock area, improvements to access sight lines, and new landscaping of site frontage.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr J Lomas against Eastleigh Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.
4. The Council's second reason for refusal sets out that insufficient information was provided to demonstrate that the development would not have an adverse impact in terms of contaminated land and its future residents. Subsequently the appellant has undertaken a further contaminated land survey, and the resulting report confirms that the potential risk of ground gas associated from the presence of made ground from past uses is low. Whilst no remedial actions are required, a planning condition is recommended to ensure that an observation and discovery strategy for unexpected contamination is followed during construction.
5. The Council has confirmed that it no longer wishes to pursue the second reason for refusal. I see no reason to disagree and, subject to a suitably worded planning condition, Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016 – 2036) (LP), which relate, in part, to land contamination and the amenity of future residents, have been satisfied.

## Main Issue

6. The main issue is whether the proposal would be a suitable form of development having regard to development plan policies in respect of development in the countryside and replacement dwellings.

## Reasons

7. The appeal site is in the countryside for the purposes of the development plan. It includes two static mobile homes on the eastern part of the site, which were confirmed as lawful in November 2021 by the granting of a certificate of lawfulness<sup>1</sup>. The proposed position for the two dwellings, which would replace the mobile homes, is the undeveloped land between where the mobile homes are currently sited and Winchester Road.
8. The site sits on the east side of Winchester Road between Fair Oak and Colden Common. To the south of the site is existing residential development and to the north are fields that allow relatively open views into the site from that direction. The appellant's Landscape and Visual Impact Assessment (LVIA) confirms that the views into the site from Winchester Road, including from the entrance to the site, are glimpsed views due to existing vegetation. Vegetation also interrupts views of the site from the footpath to the east. The LVIA also indicates that there are views of the site from the north, including parts of the nearby caravan park.
9. The specific development plan policy for replacement dwellings in the countryside is Policy DM26 of the LP. The policy states that permission will not be given for the replacement of mobile homes with permanent dwellings. Additionally, Policy DM26 sets out that the replacement dwelling should be within the curtilage, and on the same footprint, of the existing dwelling it is replacing, unless environmental and/or access benefits arise from an alternative location within the curtilage. As the proposed dwellings would replace the existing mobile homes and would not be erected within the curtilages of the mobile homes, the proposal would conflict with Policy DM26.
10. The proposed dwellings would be erected on a part of the site that is closer to Winchester Road than the mobile homes. The dwellings would be two storeys and significantly larger in volume and floor area than the mobile homes. They would be set within large gardens. The mobile homes are relatively tucked away in a corner of the site that is well screened on three boundaries. There would be a substantially greater possibility to see the proposed development from Winchester Road due to their siting and scale. I note that the LVIA suggests that the new planting would screen the development. Whilst the planting would help to screen the proposed development from the wider landscape to an extent, this means that the proposal would become heavily reliant on the vegetation and its longevity to prevent views of the incongruent development.
11. The introduction of two residential properties of the scale proposed would result in a considerable urbanising of the rural fringe of Fair Oak and the greater potential for the dwellings to be seen from public vantage points would lead to material harm to the character and appearance of this part of the countryside. I acknowledge that the site has a rising backdrop of existing residential development, but the proposal would essentially extend that existing development

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<sup>1</sup> Eastleigh Borough Council application reference LDC/21/90862

into the undeveloped hinterland of the aforementioned settlement to the detriment of the landscape. The significantly larger curtilages would exacerbate the harm as domestic paraphernalia sited within the significantly larger curtilages, which cannot be controlled by a planning condition due to it not constituting material development, would further exacerbate the harmful impact.

12. The appellant has mentioned planning permissions that have been granted for residential development on properties near to the site and outside the settlement of Fair Oak, namely Waratah<sup>2</sup> and Steading<sup>3</sup>.
13. The outline planning permission and reserved matters granted at Waratah was for four detached dwellings on land to the south of the appeal site. Whilst I acknowledge that Waratah is also in the countryside, the material difference between that approved scheme and the appeal is that the former was determined and granted prior to the adoption of the current development plan. Furthermore, the Council concluded that the Waratah proposal would visually improve the appearance of the site and would not harm the character, and the absence of landscape harm seems to have outweighed the conflict with locating residential development in the countryside. Given that I have found that the appeal proposal would harm the character and appearance of the landscape and as a result conflict with the current development plan, the Waratah permission does not alter my judgement on the appeal.
14. The Steading permission was for the erection of a single dwelling to the south of Waratah. The application for the dwelling was submitted following the dismissal of an appeal for a dwelling to the east of Steading<sup>4</sup> and the revised scheme involved relocating the proposed dwelling to the west of Steading. Despite the countryside location of that proposal, it was determined by the Council that as the dwelling would be contained by existing development, including the Waratah development, it would not encroach into the countryside and therefore not have a significant material harm on the countryside setting. As such, the Council concluded that it was able to support the proposal and granted planning permission. The appeal proposal would not be contained by existing development, and it would result in development encroaching into the countryside, thereby harming the character and appearance of the landscape. The Steading permission is therefore not comparable to the appeal and does not change the finding I have reached on the appeal.
15. For these reasons, the proposed development would not be a suitable form of development having regard to development plan policies in respect of development in the countryside and replacement dwellings. Consequently, the proposal would conflict with Policies S5, DM1 and DM26 of the LP, which collectively seek, in part, to protect and enhance the countryside, maintain its rural character and limit urbanisation, limit the impact of replacement dwellings on the countryside and any urbanising effects, and prevent the replacement of mobile homes with permanent dwellings whether the mobile homes are permanent or temporary.

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<sup>2</sup> Eastleigh Borough Council application references O/17/79837 and RM/18/84037

<sup>3</sup> Eastleigh Borough Council application reference F/20/89354

<sup>4</sup> Appeal reference APP/W1715/W/19/3230599

## Other Matter

16. I note the appellant's comments regarding the Council's handling of the planning application, but that is not determinative in my consideration of the appeal and is a matter for the parties.

## Planning Balance

17. The evidence before me indicates that the Council cannot demonstrate a five year housing land supply (5YHLS). A draft updated 5YHLS calculation submitted in December 2024 in relation to appeal reference APP/W1715/W/24/3350858 confirmed this and the figure provided was 4.4 years. In these circumstances, Paragraph 11(d) of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. The site is nearest Fair Oak, which has various services and facilities necessary for day to day living. There is a pavement running from the site into the settlement. Street lighting is present from the edge of the settlement, and this is not a substantial distance from the site. Whilst it is not an insignificant walking distance from the site to those services and facilities, it is borne in mind that the Council has approved residential development near the site at Waratah and Steading and it has not raised concerns in respect of the sustainability of the site's location. While the appeal site is essentially sustainably located, given the distance to the nearest services and facilities, I give this benefit limited positive weight.
19. The proposal involves two existing lawful mobile homes being replaced by two self-build dwellings. In terms of the contribution to the existing housing stock and the Framework's emphasis on boosting housing supply, the proposal would have a broadly neutral effect on the local housing supply, replacing two existing residential units of accommodation with two dwellings, albeit somewhat larger and more well suited in terms of size and disabled access. The improved living conditions for occupiers and better accessibility standards associated with the two dwellings attracts minor weight due to the small scale of the proposal.
20. The proposed dwellings would be self/custom build housing (SCBH), and the appellant has submitted a Unilateral Undertaking to secure them as such. The Framework supports the provision of SCBH on small sites. Additionally, The Self-Build and Custom Housebuilding Act 2015 (as amended) prescribes that relevant authorities must give development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The appellant asserts that in October 2023 there was a shortfall of 86 units against the demand. However, I have not been provided with a more up-to-date evidenced figure and this shortfall is likely to have changed in the intervening period of time. The contribution of two self/custom build dwellings would make some contribution towards meeting the demand, but that contribution would be limited given the scale of the development. I note the very significant weight attributed in appeals for four self/custom build dwellings in the Green Belt<sup>5</sup>, but in that case, there was a very substantial and acknowledged shortfall of 318 units, which is substantially larger than the appeal before me. Despite this, having regard to the Framework and the

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<sup>5</sup> Appeal references APP/T0355/W/22/3309281 and APP/T0355/W/23/3314990

Council's legal duty, together with the shortfall of SCBH provision, I afford moderate weight to this particular matter.

21. The proposal also includes a landscape strategy that involves planting a native-mix woodland and removing non-native trees that would improve the visual appearance of the site's road frontage. Given that it would be a localised improvement, it is afforded limited weight. Additionally, I also note that an improved foul water disposal system would be installed. In terms of the latter, any benefit from improvement to the drainage for two dwellings would be limited and any harm from the existing arrangement has not been substantiated. Accordingly, this benefit is also afforded limited weight.
22. The removal of the existing mobile homes in return for the proposed dwellings would also benefit adjacent trees and the appellant has set out that improvements to the vehicular access at the site form part of the proposal. However, it has not been demonstrated that these benefits could not be achieved through a less harmful scheme and are afforded limited weight. The site would also be tidied up as part of the proposed development. However, there is no evidence to show why this improvement could not be implemented regardless of the outcome of the appeal and it is also afforded limited weight.
23. The appellant has mentioned a potential 'fallback position' in relation to the existing mobile homes. It is stated that the mobile homes could be replaced, without planning permission, with mobile homes that are larger and potentially more intrusive than the current structures. However, I do not have conclusive evidence before me confirming that replacing the existing mobile homes could be carried out lawfully without the need for planning permission, particularly if the replacement mobile homes were, as the appellant suggests, significantly larger than the existing ones. Without such evidence there is not a real prospect of the mobile homes being replaced by one of the example mobile homes provided by the appellant. I therefore afford the asserted 'fallback position' negligible weight.
24. In summary, the relatively sustainable location of the site, the improved living conditions and accessibility standards, and the improved frontage of the site and wastewater treatment on site are all benefits that attract limited weight. Given the shortfall of self/custom build dwellings, the Framework's support for such housing and the Council's legal duty towards SCBH, the provision of two self/custom build dwellings attracts moderate weight. Taking all of these factors collectively, I afford the benefits of the scheme moderate weight in the determination of the appeal.
25. Weighing against the benefits is the conclusion that the proposal would not be a suitable form of development having regard to development plan policies in respect of development in the countryside and replacement dwellings and would conflict with the provisions of Policies S5, DM1 and DM26 of the LP. The proposal may comply with certain policies contained in the LP, but given the harm that I have identified, the proposal conflicts with the development plan when taken as a whole. According to the Framework, development should be sympathetic to local character, including the landscape setting and add to the overall quality of the area. Recognising the intrinsic character and beauty of the countryside are also essential considerations. Given that the policies that I have identified are consistent with the Framework, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development.

26. Overall, I find that the adverse impact of the proposal being an unsuitable form of development in the countryside would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

### **Conclusion**

27. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability.
28. The appellant explains that the intention is for their father to live with one of his sons in one of the proposed dwellings and this would ensure that he has long term care for his disability whilst maintaining a degree of independence. The proposal would provide the opportunity for living accommodation to be designed and constructed to suit the needs of the appellant's father.
29. However, this must be balanced against the great weight to be attributed to the protection of the countryside and the undeveloped landscape from inappropriate development. I have been provided with limited evidence to demonstrate that the suitable living accommodation to meet the needs of the appellant's father could not be delivered in a less harmful way. Moreover, there is no mechanism to secure the claimed benefit of the appellant's father living at the site.
30. In this case, I conclude that the father's disability is not a matter which outweighs the harms identified, and with due regard to the PSED, I find that dismissing the appeal would be both necessary and proportionate.
31. For the reasons given above, the proposed development would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

*K Reeves*

INSPECTOR