



Appeal Decision

Site visit made on 3 March 2025

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/L1765/W/24/3349843

Hopelands, New Road, Swanmore Southampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by T Buckland against the decision of Winchester City Council.
 - The application Ref is 23/02812/OUT.
 - The development proposed is described as 3 self-build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application for outline planning permission with access to be considered in full. Appearance, landscaping, layout, and scale are identified as reserved matters and as such where the proposed site plans show any information relating to these, I have treated this as illustrative for the purposes of making my decision.
3. The National Planning Policy Framework ("the Framework") was updated in December 2024. The main parties were given an opportunity to comment on this and the revised version has been referred to in this decision.
4. Following the submission of an Ecological Impact Assessment report, the Council confirms that the third reason for the refusal of planning permission relating to the impact upon biodiversity interests have been addressed. Additionally, a Biodiversity Enhancement Plan, to be agreed with the Council, could be secured by condition, in the event this appeal was acceptable in all other regards. This would ensure biodiversity would be appropriately managed, maintained, and enhanced.
5. The appellant states that the wrong ownership certificate was submitted with the planning application. Whilst the application was submitted on behalf of Tracey Buckland, her daughter Sophie Buckland is the freehold landowner of the appeal site. The appellant's Statement of Case explains that Sophie Buckland confirmed that she has been aware of the application for development of her land and that she has been actively involved throughout the application process. An Ownership Certificate B form was subsequently completed and served on the 9 August 2024. Sophie Buckland is also a signatory to the submitted legal agreement.

6. Given these circumstances, I am satisfied that Sophie Buckland has not been unduly prejudiced by the procedural error at the application stage and would not suffer any injustice by my determining this appeal based on all the evidence before me.

Main Issues

7. The main issues therefore are:

- Whether the location of the proposed housing would be appropriate having regard to it being outside the settlement boundary as defined in the development plan; and
- The effect of the proposed development on the character and appearance of the area including the Bishops Waltham Settlement Gap.

Reasons

Location

8. The appeal site lies outside of the settlement boundary and the development plan looks to direct development towards the most appropriate locations balancing the need for development with the need to protect the countryside.
9. Paragraph 6.30 of the Winchester District Local Plan Part 1 2013 (“the LPP1”) states that development will be limited to that which has an essential need to be in the countryside. Policy MTRA4 of the LPP1 indicates that new development will be granted for development in the countryside if it meets certain criteria. The proposal does not meet this criteria and therefore conflicts with this Policy.
10. Policy DM1 of the Winchester District Local Plan Part 2 2017 (“the LPP2”) also confirms that outside of settlement boundaries countryside policies will apply and only development appropriate to a countryside location will be permitted.
11. I therefore conclude that the appeal would not be appropriately located conflicting with the spatial strategy of the development plan. It would therefore conflict with the relevant provisions of Policies MTRA4 of the LPP1 and DM1 of the LPP2. These policies, amongst other things, seek to protect the countryside from unacceptable development.
12. This conflict with the development plan carries some harm and the planning system should be genuinely plan-led. However, before determining the appeal, I will consider what, if any other harm, would be caused by the proposed development and whether there are any material considerations that may outweigh the conflict with the development plan.

Character and Appearance

13. The appeal site lies outside the settlement of Waltham Chase and therefore the open countryside. The site also sits within the Bishops Waltham Settlement Gap. This settlement gap plays an important role in preventing coalescence while retaining the separate identity of individual settlements and preserving open land between the more developed areas. However, not all development within a settlement gap would have an unacceptable impact and it is necessary to consider the proposed development on its own merits.

14. The local area along New Road features open and undeveloped fields as well as sporadic development. Buildings line the highway at the junction where New Road meets Forest Road. However as one travels along New Road toward the appeal site the buildings, which are primarily along one side of New Road, transition to open land.
15. Continuing the journey toward Swanmore, the open nature of the area is interrupted by dwellings either side of the junction with Brickyard Road and development continues along Brickyard Road. However, when continuing beyond these dwellings along New Road and toward Swanmore, the local environment is defined by clear views of open fields to either side of New Road reinforcing the feeling of being in the countryside. There is some sporadic commercial, recreational, and residential development before reaching Swanmore College and the settlement boundary, however, these do not detract from the overall positive sense of openness.
16. While there is a scattering of buildings and a degree of activity within this part of the countryside, the general character of low-density development relates well to the surrounding undeveloped land, open spaces, and perception of tranquillity within this locality.
17. The appeal site is broadly open but does feature hardstanding, a polytunnel, timber outbuilding, fencing, and shipping containers. Trees and hedgerows bound the site with a paddock area situated toward the rear of the appeal plot. However, the Council state that the hardstanding and shipping containers have been introduced recently and do not appear to benefit from formal planning consent, this is not substantially disputed by the appellant.
18. The appeal site therefore makes a positive contribution to the open and tranquil characteristics of the locality and the quality of the settlement gap. The proposed development would introduce three dwellings to the appeal site and while I have some concerns about dwellings which do not front the highway, appearance, landscaping, layout, and scale are identified as reserved matters. Nonetheless, the impact of three dwellings, even if they all faced the highway, with their associated access and presence would affect this countryside location.
19. Visually this would include the extent of the access which would incorporate the creation of visibility splays, access through the hedgerow and onto the dwellings. Although I do note the closure of the existing access and its proposed replanting and I also accept that further landscaping is likely to be secured at the reserved matters stage. There is also no reason to suggest layout, scale and appearance would not be appropriate.
20. However, the introduction of three dwellings, with associated domestic paraphernalia in combination with activity and after dark artificial light, ordinarily expected with residential uses on the site, would create an intrusive and harmful urbanising effect when experienced in this location.
21. This would be harmful to the character and appearance of the area. Furthermore, for the same reasons, these factors in combination would diminish the physical and visual separation of the settlements compromising the integrity of the Bishops Waltham Settlement Gap.

22. The harm established would, however, be tempered by the presence of residential dwellings nearby with some of the appeal site's boundaries adjoining residential gardens. The appeal site also makes up a smaller gap within the wider settlement gap. While this reduces the harm of the proposed development, this would nonetheless continue to erode an existing gap within the countryside and a designated settlement gap. This therefore would unacceptably harm the tranquillity of the countryside and unacceptably diminish the generally open and undeveloped nature of the settlement gap.
23. This physical and visual diminishment of openness would be unacceptably harmful to the character and appearance of the area including the Bishops Waltham Settlement Gap. The proposed development would not, therefore, comply with the relevant provisions of Policies CP18 of the LPP1 and DM15, DM16, DM18 and DM23 of the LPP2. These, amongst other things, look to promote high quality design which responds to local distinctiveness, sense of place and the rural character.

Planning Balance

24. Policy CP2 of LPP1 states that new residential development should meet a range of community housing needs and deliver a wide choice of homes. This therefore allows for self-build housing development. For these reasons, the development plan is not deemed to be out of date and paragraph 11d of the Framework is not engaged.
25. Nonetheless, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, there would be economic, social, and environmental benefits on this small windfall site which is in a sustainable location. However, given the limited quantum of development, I ascribe the cumulative impact of all these benefits moderate weight.
26. Paragraph 6.2.2 of the LPP2 states that outside of settlement boundaries development, especially for housing, is normally only permitted where there is a particular need for it which cannot be met within a built-up area. This also reflects Policy MTRA2 of the LPP1 which states, amongst other things, that housing, should be accommodated within existing settlement boundaries in the first instance. However, sites outside settlement boundaries will only be permitted where, following an assessment of capacity within the built-up area, they are shown to be needed.
27. In general terms, the evidence suggests that the Council is meeting its housing targets. While the supply of additional housing weighs in favour of the proposal the weight it carries is moderated by this evidenced supply. However, the Council does confirm that the number of permissions in respect of custom and self-build ("CSB") developments have not matched year on year demand.
28. The Housing and Planning Act 2016 provides that authorities must give development permission to meet identified demand for CSB in the authority's area arising in each base period. While the Council has made some improvements particularly in base periods seven and eight, the Council's evidence shows that there is still a shortfall of 182 plots against the need recorded on its CSB register.

29. I acknowledge that some windfall development may come forward to take advantage of the exemption set out for CSB schemes with regards to biodiversity net gain. However, it has not been robustly shown in evidence that sufficient sites will come forward to meet the shortfall.
30. I also appreciate that windfall sites coming forward within the settlement areas have potential to also contribute toward meeting CSB targets more generally. However, what is less clear is how many of the projected windfall sites would genuinely meet the definition of CSB. Given this uncertainty surrounding the ability of future windfall development to clearly meet the demonstrated CSB need, I ascribe limited weight to any projected windfall site provision in this regard.
31. I have also reviewed the evidence in respect of the emerging Local Plan. However, this has yet to go through examination. While some steps are being made as part of this emerging document to make provision for CSB this carries limited weight given the status of this emerging plan.
32. I have carefully considered the evidence, and I note the level of CSB need is disputed between the main parties. However, even in the best-case scenario presented by the Council, the shortfall amounts to at least 182 units. Therefore, the statutory duty to provide enough plots has not been met to date and future prospects have not been clearly shown to meet this need either. Whether I accept the Council's or the appellant's figures, the harm of this failed duty therefore carries significant weight regardless.
33. The appeal scheme would be for self-build housing and the appellant has submitted a legal agreement to secure the development as such. Relevant authorities must give suitable development permission to meet the demand for CSB in their area. In this case, the provision of three dwellings would make a modest contribution toward this shortfall and I therefore ascribe moderate weight to this contribution.
34. However, there would be harm generated by the urbanisation of the countryside and loss of the broadly open and rural site within the settlement gap. The harm identified would be long lasting and considerable. However, this harm would be somewhat reduced given the proposed development's location near residential dwellings, with some of its boundaries adjoining residential gardens. The appeal site also makes up a smaller gap within the wider settlement gap. These harms nonetheless when considered in their totality would attract significant weight.
35. I appreciate the Council found no other harm other than that which is set out in its decision. However, the absence of harm in these aspects has limited bearing on my overall findings.
36. Accordingly, the harm I have identified would be significant and long lasting, but the benefits are also of importance given the identified CSB shortfall. However, given the limited quantum of development, the benefits would, in the circumstances of this case, be outweighed by the identified harm of the development proposal. This would not, therefore tip the planning balance in the appeal scheme's favour when set against its conflict with the development plan.

Other Matters

37. I note the site's inclusion in the Strategic Housing and Economic Land Availability Assessment ("SHELAA"). The SHELAA forms an evidence base for the emerging local plan, and it identifies sites which have been submitted to the Council. There is limited evidence before me to suggest the SHELAA directly allocates sites or indicates which sites should receive planning consent. While I note the inclusion of the site in the SHELAA, I have considered this case on its own merits as set out above.
38. I have also considered the other appeal decisions submitted by the appellant. These cases involve different appeal sites, with differing circumstances. For instance, the number of self-build units proposed in several of the cases is different to the proposal before me and this would alter the degree of benefit proposed.
39. Similarly, some of the other appeals are not located within a designated settlement gap or have a different impact within the countryside. All these factors influence the weight attributable to the harms and benefits which are site specific. Each case must therefore turn on its own individual merits and these other appeal decisions do not alter my overall findings.
40. The appeal site lies within influencing distance of the Solent Special Protection Areas ("SPAs"), where a net increase in housing development is likely to result in impacts to the integrity of these sites. This includes increased levels of nutrients from wastewater entering the Solent water environment and recreational uses of the SPAs. Such impacts would require the inclusion of a package of avoidance/mitigation measures to address these effects.
41. The appellant confirmed a willingness to provide the required measures, and a legal agreement was submitted with the appeal. Both main parties are content that further mitigation could be secured with a Grampian condition in combination with an acceptable legal agreement.
42. The responsibility for assessing the effects of the proposal on the SPAs falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine the above matters further, including consulting with Natural England, and to undertake an Appropriate Assessment ("AA").
43. I would need to be satisfied that any schemes for addressing the recreational and water impacts of the development are certain at the time of the AA, so that no reasonable scientific doubt remains as to the effects of the development on the internationally designated European sites. However, even if this matter were acceptable, it would constitute a lack of harm, which by definition cannot weigh for or against the scheme before me.
44. Consequently, as there are other clear reasons for dismissing the appeal the outcome of any such AA would have no bearing on the overall conclusions of this appeal. Therefore, I do not need to consider these matters any further as part of my decision.

Conclusion

45. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR