



## Appeal Decision

Site visit made on 1 April 2025

**by Nick Davies BSc(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> April 2025

**Appeal Ref: APP/B1740/W/24/3355498**

**Juneda, New Road, Blackfield, Hampshire SO45 1WA**

- 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 Kammark Development Ltd against the decision of New Forest District Council.
- The application Ref is 23/11260.
- The development proposed is replacement 3-bed chalet style dwelling and new 2-bed bungalow to land at rear.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the description of the development from the appeal form, which accurately describes the proposal and is more concise than that on the application form.
3. A Bat Scoping Report and Ecological Assessment<sup>1</sup> was submitted with the appeal, together with revised plans numbered 9091 02 Rev B, 9091 03 Rev A, and 9091 04 Rev A, which incorporate the recommended biodiversity enhancements. The amendments to the proposal are limited to the addition of proposed bat and bird boxes. I do not consider that any party would be unfairly prejudiced by my consideration of the amended plans in my determination of the appeal. The Bat Scoping Report assessed the roosting suitability of the site to be negligible. The Council has confirmed that, in the light of these findings, the second reason for refusal on the decision notice has been overcome.

### Main Issues

4. The main issues are, therefore:
  - a) The effect of the development on the character and appearance of the area; and,
  - b) The impact of the development on internationally designated habitats sites.

### Reasons

#### *Character and appearance*

5. The appeal site is a long, narrow plot that has a frontage with New Road to the north. The southern part of the plot borders the gardens of dwellings that front

<sup>1</sup> The Ecology Co-op: Project No: P6758 dated 17th October 2024

Walkers Lane North. The existing dwelling occupies the full width of the plot, and is located approximately at the mid-point of the site, so it has long gardens to the front and rear. The evidence indicates that planning permission has been granted for a dwelling in the front garden. The appeal scheme involves the replacement of the existing dwelling in a similar location, but allowing for a driveway to the side, which would give access to a proposed new bungalow in the rear garden. The Council's reasons for refusal only relate to the new bungalow.

6. New Road is straight, and lined to either side by houses and bungalows. There are grass verges on both sides of the road, and the buildings are set back on their plots behind hedges and fences that enclose the front gardens. As a result, the street has a spacious, suburban character. Within this context, Juneda is something of an anomaly, as it is set much further back than the other buildings, and has a largely open frontage. Implementation of the existing planning permission would result in a dwelling that aligned more closely with those to either side, and would result in Juneda occupying a site behind the frontage buildings, and less visible from the road.
7. The space behind Juneda is not particularly evident in the street scene, so does not make a significant contribution to the prevailing character of the area. Indeed, the dwellings that front Walkers Lane North are visible in the gaps between the houses and bungalows that front New Road to the west, so there is no real sense of openness behind the frontage buildings. The proposed bungalow would be set a very long way back from New Road, behind the replacement Juneda and, in due course, a new dwelling closer to the road. It would, therefore, not be a prominent feature, and would only be glimpsed between buildings. In such views, it would appear as a continuation of the line of dwellings that are already visible to the rear. Consequently, its siting behind Juneda would not appear incongruous, and there would be little impact on the prevailing character of the area.
8. Walkers Lane North comprises a mixture of detached houses and bungalows set behind enclosed front gardens, with plentiful ornamental planting, boundary hedges, and some mature trees. It has a verdant, suburban character, but there are no substantial spaces between the buildings. Whilst many of the dwellings around the appeal site have large gardens, this is not readily evident from the road, and there is no apparent feeling of spaciousness behind the buildings.
9. The appeal site borders the side garden of The Laurels, which is one of a pair of detached bungalows that are set further back from the road than the other dwellings in Walkers Lane North. They are accessed via a private drive off a right-angled bend in the road, and are set side by side on a similar building line, with gables facing the road. The proposed bungalow would align with these two dwellings, and would also have gables in its southerly elevation. It would, therefore, appear as a natural continuation of the row of buildings, rather than as a discordant feature.
10. The bungalow would be set well back, and would be largely hidden from most viewpoints by the buildings that are closer to the road. In any event, the arrangement of dwellings around this bend in the road is somewhat informal, so there is not a distinctive layout of buildings. Consequently, from where it could be seen, the bungalow would not appear unduly intensive or out of character with any established pattern of development, but would assimilate comfortably into the

surrounding roofscape. The existing character of the area would, therefore, remain largely unaltered.

11. For the above reasons, I conclude that the proposal would not harm the character and appearance of the area. The development would, therefore, accord with Policy ENV3 of the New Forest District Council Local Plan 2016-2036 Part 1: Planning Strategy (July 2020) (the Local Plan Part 1). This Policy seeks to ensure that new development is sympathetic to its context in terms of layout, appearance, and density and in relationship to adjoining buildings.

#### *Habitats sites*

12. The development site lies within the zone of influence of the New Forest Special Area of Conservation (SAC), the New Forest Special Protection Area (SPA), the New Forest Ramsar site, the Solent and Southampton Water SPA, the Solent and Southampton Water Ramsar site, and the Solent Maritime SAC. These sites are internationally recognised and are protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The Habitats Regulations require me, as the competent authority, to make an appropriate assessment (AA) of the implications of the proposal for the protected sites in view of their conservation objectives. They also prevent me from granting permission unless the proposal would not adversely affect the integrity of the protected sites.
13. The New Forest and Solent habitats sites are designated as such because they provide habitat for ground-nesting birds and feeding grounds for internationally important populations of overwintering waders and wildfowl. Both protected sites are also attractive locations for public recreation. In the light of the evidence before me, when considered alone or cumulatively with other schemes, I cannot rule out that the proposal would have significant effects on the features of interest of the habitats sites, due to the resultant increase in recreational use. In the case of the New Forest sites, there is also uncertainty regarding the impact of traffic-related nitrogen air pollution on vegetation in sensitive locations. The additional car movements resulting from the development could contribute to this impact. In the case of the Solent sites, there is evidence of eutrophication through increased levels of nitrogen and phosphorous in the water environment. The additional discharge of wastewater from the proposed dwelling could, cumulatively, add to this impact.
14. In my AA, I may consider any conditions or other restrictions which could secure mitigation of this harm. The Council has an adopted strategic solution to mitigate the effects of increased recreational use on the New Forest Sites, in the form of its Mitigation for Recreational Impacts on New Forest European Sites Supplementary Planning Document (the SPD). This strategy requires all development within the Plan Area to make a financial contribution to the projects set out in the SPD, or to provide mitigation to at least an equivalent effect. The projects include new areas of open space; enhancements to existing public open space; improvements to recreational walking routes; increased ranger services to assist visitors; and access management measures.
15. I have not been provided with any evidence of a similar strategy to cover the recreational impacts on the Solent sites. Nor do I have evidence relating to an adopted approach towards the calculation of financial contributions towards air quality monitoring and mitigation. Nevertheless, the appellant does not dispute the

need for mitigation, and has indicated a willingness to secure the necessary contributions through a Section 106 agreement. However, no legal agreement has been provided with the appeal, and no alternative means of mitigating the impact on the habitats sites has been identified. Consequently, as the competent authority, I am unable to conclude through my AA that the proposal will not affect the integrity of the habitats sites through increased recreational pressure and traffic-related air pollution.

16. With respect to increased levels of nitrogen in the water environment, the evidence before me is that Natural England has raised objections to any new residential accommodation in the area of influence of the Solent sites unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place. The Council has suggested a condition that would prevent occupation of the dwelling, until a mitigation package addressing the additional nutrient input arising from the development, has been approved and implemented. However, there is nothing before me which indicates that the development could achieve nitrate neutrality through on-site measures. Furthermore, I have not been provided with any evidence to indicate that there is an agreed strategy for mitigating the wastewater implications of additional housing in the Council's area. Consequently, I cannot be certain that a condition would mitigate the effects of the development. As the competent authority, I am therefore unable to conclude through my AA that the proposal will not affect the integrity of the Solent sites through increased nitrate loads.
17. To conclude on this issue, my AA indicates that the proposal would cause harm to the habitats sites without clear and certain mitigation. Therefore, the development would conflict with Policy ENV1 of the Local Plan Part 1 and Policy DM2 of the Local Plan Part 2<sup>2</sup>. These Policies seek to ensure that proposals will not have adverse effects on the integrity of habitats sites, and that appropriate mitigation is secured prior to approval of development.

### **Planning Balance**

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal would adversely affect the integrity of protected wildlife sites. It would, therefore, be in conflict with the policies of the development plan as set out above.
19. It is not disputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 78 of the National Planning Policy Framework (the Framework). The evidence indicates that the current supply is 3.07 years, so there is a substantial shortfall. However, paragraph 195 of the Framework makes it clear that the presumption in favour of sustainable development does not apply where the proposal is likely to have a significant effect on a habitats site, unless an AA has concluded that the plan or project will not adversely affect its integrity. In the absence of any agreed mitigation, the proposal would have a likely significant effect on the habitats sites. Consequently, the approach to decision-taking described in paragraph 11d) of the Framework does not apply.

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<sup>2</sup> New Forest District Council Local Development Framework Local Plan Part 2: Sites and Development Management (Adopted April 2014)

20. Nevertheless, the benefits of the proposal must be weighed against the harm that I have identified. Paragraph 61 of the Framework seeks to significantly boost the supply of homes. The development would provide an additional dwelling, which would assist with this aim, and would make a modest contribution to reducing the identified shortfall. The site is in an accessible location that would be suitable, in principle, for residential development. Paragraph 73 of the Framework says great weight should be given to the benefits of using suitable sites within existing settlements for homes, while paragraphs 124 and 129 encourage the efficient use of land in meeting the need for homes.
21. There would also be benefits to the economy associated with the construction phase of the development, and the future spend by occupants in the local area. However, in view of the limited scale of the proposal, the economic benefits would be small, so carry little weight in my decision.
22. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Furthermore, paragraph 193 says that if significant harm to biodiversity resulting from a development cannot be avoided, then planning permission should be refused. Overall, therefore, the benefits associated with the proposal do not outweigh the conflict that I have found with development plan policies that seek to avoid harm to protected wildlife sites.

### **Conclusion**

23. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR