



Appeal Decision

Site visit made on 1 July 2025

by **A J Sutton BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/L1765/W/25/3364830

Four Dells Bungalow, Poles Lane, Otterbourne, Hampshire SO21 2DY

- 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 John Venn against the decision of Winchester City Council.
 - The application Ref is 25/00158/FUL.
 - The development proposed is described as 'Demolition of an existing detached bungalow and garage, and the erection of a B2/B8 industrial building with associated hardstanding and parking.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on European Protected Species;
 - Whether the proposed change of use at this site is acceptable, having regard to relevant locational policies of the development plan; and
 - The effect of the proposal on the character of the area, with particular regard to trees.

Reasons

European Protected Species

3. The Conservation of Habitats and Species Regulations 2017 require a competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This is relevant where any proposal that might lead to the deterioration or destruction of breeding sites and resting places of European Protected Species, which include bats and the places they roost.
4. The Biodiversity Checklist submitted with this appeal highlights that the appeal property includes a pre 1960's dwelling, that is close to trees. In such circumstances, the Checklist advises of the need to consider the proposal's potential impacts on bats and bat roosts. Taking this into account and the fact that the existing dwelling would be demolished under this scheme, the evidence points to the development having potentially harmful effects on legally protected species. As the Biodiversity Checklist appears to have been submitted with the original application it seems to me that the appellant was aware of this from that early stage.
5. National guidance is clear that the presence or otherwise of protected species, and the extent that they may be affected by a proposed development, should be established before the planning permission is granted. This approach is reflected in the guidance of the Biodiversity

Checklist, which outlines information expected in support of an application that may have potential adverse impacts on protected habitats and species.

6. Planning conditions requiring relevant ecological surveys to establish, amongst other matters, whether species are present, should only be imposed in exceptional circumstances. No compelling evidence has been advanced that exceptional circumstances exist in this case.
7. The appellant states that the Council did not request such surveys during the application process. That factor is outside the scope of this decision. This aside, as already outlined this matter was flagged in the initial Biodiversity Checklist. In any event, the officer's report indicated the need for surveys on this matter and this was reflected in the Council's reasons for refusing planning permission. Despite this clarity, the appellant has chosen not to submit a preliminary bat survey in support of this appeal.
8. Given the lack of a bat survey, I am unable to establish whether protected species may be present, and if they are, the extent to which they may be affected by this proposal. The proposed unit is relatively modest in size and the plans show there would be some space around it once the dwelling is removed. Therefore, there may be sufficient space on the site or within the control of the appellant to provide mitigation if harm was identified in respect of this matter.
9. Be this as it may, without the preliminary evidence it is unclear whether the biodiversity mitigation hierarchy set in the local and national policy, would be addressed in this case. Given this, I cannot be certain based on the limited information before me that this development would not result in significant harm to the long-term conservation status of bat species that could be present in this area.
10. In light of the above, I find that there is insufficient information to establish the effect of the proposal on European Protected Species in the area. In this regard the proposal would fail to accord with Policy CP16 of the Winchester District Local Plan Part 1: Joint Core Strategy (LPP 1) and Policy DM17 of the Winchester District Local Plan Part 2: Development Management and Site Allocations (LLP2). These Policies collectively state that development will be required to avoid adverse impacts, or if unavoidable ensure that impacts are appropriately mitigated, with compensation measures used only as a last resort.

Locational Policies

11. Policy MTRA4 of the LPP 1 guides development in the countryside, and its supporting text clarifies that development will be limited to that which has an essential need to be located in the countryside. But the text goes on to highlight in respect of existing buildings no longer in use... it is considered appropriate to provide for them to be used productively, through re-use, or for them to be redeveloped.
12. The Policy sets out the types of development considered acceptable in these locations. This includes the expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need, provided development is proportionate to the nature and scale of the site, its setting and countryside location.
13. The proposal would redevelop an existing building and would be consistent with this Policy in this respect. Moreover, existing industrial units are close to the north of the appeal site, separated only by the internal roads and relatively narrow band of vegetation. Although, unlike the appeal site, those existing units and other nearby commercial premises on the wider business estate have minimal soft landscaping directly at their boundaries, the space

between those units is nonetheless similar to that which exists between them and the bungalow proposed for redevelopment.

14. The existing business estate has a mix of industrial and commercial units, and the proposed industrial unit in this case would be in keeping with the nature of those nearby uses. Not only would the development be close to existing similar units to the north, but it would roughly align with the commercial premises to the east just beyond the estate road. Also, the appeal site is a modest plot, but small when considered in the context of these existing neighbouring uses. Consequently, this scheme would be only a small extension to the existing estate and thus proportionate in both nature and scale.
15. In addition to the features outlined above, the submitted information shows that at least part of the land hosting the established estate is in the control of the appellant. Given these factors, and in the absence of any compelling evidence that indicates otherwise, in my view, the proposed redevelopment of the existing building on this site would comprise a proportionate expansion of this established business. The proposal would accord with these requirements of Policy MTRA4.
16. Policy CP8 of the LLP1 provides support for the development within the district's five key economic sectors of public administration and business services, land based industries, tourism and recreation, knowledge and creative industries and retail. And the Council asserts that this proposal falls into none of these types of developments.
17. Even if I accept this, the Policy also provides support for economic development and diversification across Winchester District, in accordance with the spatial strategies for the district, through the retention, regeneration and intensification of previously developed land. This proposal would use previously developed land and as an industrial unit it would support economic development in the district. I find no conflict with this Policy for these reasons.
18. The existing dwelling is empty, but it did not appear particularly derelict. The evidence indicates that agricultural tied tenancy has been removed, but the unit still remains vacant. I note some of the challenges with regards letting the property, and no convincing evidence is advanced to dispute these.
19. That said, in a context where the Government is seeking to significantly boost the supply of housing, even the loss of just one unit is significant. However, while this factor works against this proposal, this disbenefit is countered by the dwelling being replaced by a potential productive use that could support economic development in the district. In any event, I find nothing in local or national policy precluding such a change of use in principle.
20. The local policy support for economic development as outlined is not unqualified. Policy MTRA4 of the LPP1 requires proposal should not cause harm to the character and landscape of the area and I will address this matter in due course. However, in terms of the principle of this proposal at this location, I find the proposed change of use at this site would be acceptable, having regard to relevant locational policies of the development plan. The Proposal would not conflict with Policies MTRA4 and CP8 of the LPP1 in this respect.

Character

21. The appeal site hosts a dormer style bungalow, centrally located in its plot. The plot is substantially screened by trees and mature vegetation at its boundary. The property is accessed by a shared estate road that leads to commercial units to the east and north of the site.

22. The business estate, comprising relatively large industrial units, a council depot and smaller commercial premises, is set well back from Poles Lane and the vegetation at the appeal site provides some screening of it from this public vantage point. With these features, while the estate is sizeable, it does not have an unduly dominating presence in this setting.
23. The wider landscape comprises a patchwork of hedge lined fields with small woodland areas. Development is scattered and limited and with these qualities the area has a distinctly rural character.
24. The proposal would replace the existing dwelling with a three bay shed like building. The siting of the new building would not quite match the existing built extent of the dwelling. However, there would be some overlap, and the remaining part of the new building would cover an existing lawn as opposed to significantly encroaching into the green boundary that surrounds the property. Moreover, the footprint of the building would not be considerably larger than the existing bungalow.
25. At the site visit I saw that the boundaries of the appeal site host a variety of sizeable deciduous trees. Based on my observations, I agree with the Council, that the trees that surround the site contribute positively to the verdant quality of this immediate area. In the absence of a tree survey, it is unclear as to which trees would be affected by this proposal.
26. This aside, as already stated, development, with the exception of the new access, would be largely located in the existing lawn or footprint of the dwelling. The plans show there could potentially be plenty of space around the proposed developed footprint to retain trees. Even with a significantly increased hardstanding, and with bins and bikes storage, there appears some space at the edges of the site for tree retention and boundary enhancement. The proposed development would be well contained, and this soft landscaping would largely screen the new unit when the site is viewed from wider public vantage points.
27. Currently there appears no direct vehicle access onto the property. A new dedicated access would need to be suitable for lorries given the nature of the change of use and this would likely open the site up somewhat at its eastern boundary. However, there would also be space around this new access, and this could accommodate green features to visually soften this change. Moreover, that additional space is shown to be in the control of the appellant such that conditions could be imposed to ensure this outcome.
28. Ensuring visually important trees are protected during construction and following that stage, and new trees are planted to enhance the boundary is also a matter which can be addressed by condition. These conditions would be reasonable and necessary to ensure that positive features are maintained and enhanced, and the site would continue to positively screen the existing industrial units to the north.
29. In summary on this matter, the proposed commercial changes would alter the appearance in the site. However, with significant vegetation retained, this would only be clearly apparent in the immediate vicinity of its new access, where these localised changes would be seen in the context of the commercial uses that are already concentrated around this site. As a relatively small addition to the existing wider estate, it would not appear an oddity in this immediate locale. Moreover, subject to suitable landscaping, the proposal would not harmfully encroach into the wider agricultural setting, nor would it have an unacceptable impact on the prevailing rural character for these reasons.
30. In light of the above, I find that the proposal would not have a harmful effect on the character of this area, with particular regard to trees. The proposal in this respect would not conflict with Policies MTRA4, CP13 and CP20 of the LLP1 and Policies DM15, DM16, DM17, DM18,

DM23 and DM24 of the LLP2. These Policies collectively state, amongst other matters, that outside defined settlement boundaries, proposals which accord with the Development Plan will be permitted where they do not have an unacceptable effect on the rural character of the area, and development should not result in the loss or deterioration of ancient woodlands, important hedgerows and special trees.

Other Matters

31. Although the site may be in a Minerals and Waste Consultation Area, as an industrial use, it would be less likely to be incompatible with a waste management facility in the area, than would be the case if the site was kept as a residential unit. Moreover, as already said, this is a previously developed site and modest development is proposed, such that it would unlikely sterilise significant mineral resources. I find no inconsistency with the aims of Policy 26 of the Hampshire Minerals and Waste Plan for these reasons.
32. The appellant has indicated benefits that could be secured by condition, such as energy efficiencies and low carbon features. However, this would not overcome the inadequate information related to bat species identified in this case.
33. Policies that are not in dispute have been highlighted. However, I have found insufficient information in respect of European Protected Species and inconsistency with local policies in this regard; the proposal would conflict with the development plan when read as a whole.
34. The original application was submitted following the date when biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. The biodiversity gain condition is pre-commencement: once permission is granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development. However, prior to this, where biodiversity net gain (BNG) applies, information specified in article 7(1A) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 must be submitted at the application stage.
35. Planning Practice Guidance clarifies, in respect of this minimum national information, that it includes a completed biodiversity metric tool. While a metric was submitted, this shows errors including that the trading rules are not satisfied and the BNG is not met. The submitted metric appears incomplete in this regard.
36. While noting that there would be scope to address BNG on other land in the control of the appellant, nonetheless, the proposal does not appear to have satisfied the minimum statutory requirements. This is a matter that would need to be addressed if I was finding differently on this appeal.

Conclusion

37. For the reasons stated above and having regard to the development plan, and material considerations the appeal should be dismissed.

A J Sutton

INSPECTOR