



Appeal Decision

Site visit made on 28 May 2025

by **R Cahalane BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal Ref: APP/L1765/W/25/3361463

Black Hill Cottage, Hundred Acres Road, Hundred Acres, Hampshire PO17 6HY

- 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 Mark Blanchard against the decision of Winchester City Council.
 - The application Ref is 24/02330/FUL.
 - The development proposed is demolition of existing cottage, and replacement with new self-build dwelling including construction of a new carport.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing cottage, and replacement with new self-build dwelling including construction of a new carport at Black Hill Cottage, Hundred Acres, Hampshire PO17 6HY in accordance with the terms of the application, Ref 24/02330/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development in the above banner heading from the decision notice rather than the application form, as this change in description was agreed upon by the main parties. I have also used the address provided in the appeal form, as it refers to Hundred Acres where the appeal site is located.

Main Issue

3. The main issue is whether the proposed replacement dwelling is subject to the development plan policies governing the countryside.

Reasons

4. The main parties do not dispute that the appeal site is located within Hundred Acres, a non-defined settlement as listed under Policy MTRA 3 of the Winchester District Local Plan Part 1 – Joint Core Strategy (March 2013) (LPP1). Following my site visit, I have no reason to disagree. The site contains a detached dwelling in the process of renovation, including footings that appear to relate to extensions subject of a lawful development certificate granted by the Council¹. This dwelling is the last of a continuously developed road frontage of detached dwellings along Hundred Acres Road towards the Southwick Road junction.
5. The dispute is whether the development plan policies governing the countryside apply to the proposal. The decision notice cites conflict with Policy DM3 of the

¹ Ref: 22/00767/LDP

Winchester District Local Plan Part 2 – Development Management and Site Allocations (2017) (LPP2), which seeks to retain small dwellings in the countryside.

6. Policy MTRA 4 of the LPP1 defines the countryside as including land outside of the settlements covered by Policy MTRA 3, which includes settlements with defined boundaries as well as those with non-defined boundaries. LPP2 Policy DM1 also sets out that outside of settlements with defined boundaries as shown in the Policies Map, and other settlements listed under LPP1 Policy MTRA 3, countryside policies will apply.
7. It is put to me that as the proposal does not comprise the infilling of a small site within a continuously developed road frontage, as explicitly supported by Policy MTRA 3, Policy MTRA 4 therefore applies as the relevant policy. There is however no such cascading approach expressed either within the specific wording of Policy MTRA 3, or its supporting text.
8. I accept that a replacement dwelling as proposed is not a type of development that is otherwise explicitly supported under Policy MTRA 3. That however does not automatically mean there is conflict with this policy. As it does not explicitly resist the principle of replacement dwellings within its listed settlements, or provide a closed list of acceptable development types within these settlements, I find no conflict with Policy MTRA 3 in this respect.
9. The supporting text to the LPP2 also collectively sets out, at paragraphs 4.1.7 and 4.10.3, that areas outside of Policies MTRA2 and MTRA3 (including defined settlement boundaries and the infilling provisions of Policy MTRA 3) are defined as 'countryside' for the purposes of planning policy, and in such circumstances are subject to LPP1 Policy MTRA 4. Whilst supporting text does not have the force of policy and cannot trump it, it is nonetheless relevant to the interpretation of policy.
10. For the above reasons, I conclude that as the appeal site is located within a non-defined settlement (Hundred Acres) listed under LPP1 Policy MTRA 3, the proposed replacement dwelling is not subject to the development plan policies governing the countryside, namely LPP1 Policy MTRA 4 and LPP2 Policy DM3.
11. The Council also refers to its emerging local plan submitted to the Secretary of State for examination. I have not however been directed to any of its specific policies that form a significant change of approach from the existing development plan in respect of the planning policy land designation of the appeal site.

Other Matters

12. The appeal submission includes completed Community Infrastructure Levy (CIL) forms, including a self-build exemption claim form. The Planning Practice Guidance² (PPG) advises that a CIL exemption is one of the methods a relevant authority can consider in determining whether a permission is for self-build or custom housebuilding. The PPG³ also sets out the CIL exemption process in further detail, which is available to anyone who builds or commissions their own home for their own occupation. One of the CIL exemption requirements is that the property must remain the principal residence for a minimum of 3 years.

² Paragraph 038 Reference ID: 57-038-20210508

³ Paragraphs 082 Reference ID: 25-082-20190901 - 097 Reference ID: 25-097-20190901

13. It would thus be possible for the scheme to be delivered and occupied as a self-build dwelling, subject to the above CIL exemption process. This would not be a certainty in the absence of a legal mechanism or suitably worded planning condition. I have nonetheless found the proposal to be in accordance with the development plan as a whole, and its delivery and occupation in a manner not in accordance with the self-build exemption process would not alter this finding. Therefore, although self-build is included in the description of development, it is not necessary to secure self-build as a planning obligation under the statutory tests⁴.

Conditions

14. A condition specifying time limits for the development (condition 1) is necessary in the interests of planning certainty. Condition 2 is necessary to clarify the approved plan details. I have deleted the Council's suggested reference to the Foul Drainage Assessment and the Biodiversity Survey and Report, as surface and foul water drainage works and ecological mitigation measures are subject to conditions 4 and 5 below respectively. I have also deleted reference to the Planning Statement, as it does not contain any specific details for approval.
15. It is necessary for condition 3 to be a pre-commencement condition, in order to secure appropriate external materials for the character of the site and surrounding area. Condition 4 is necessary to be pre-commencement, to ensure satisfactory provision of surface and foul water drainage in a sustainable way. Condition 5 is necessary in the interests of biodiversity and protected species. Condition 6 is necessary in the interests of protected species and the character of the area.
16. The Council also suggests that permitted development rights be removed for all extensions and alterations, and for outbuildings and hard surfaces. The PPG states that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. However, given the location of the dwelling near to the highway and at the end of a row of dwellings, I consider it necessary to remove permitted development rights (condition 7) for extensions and roof extensions, in the interests of the character and appearance of the area.

Conclusion

17. The proposal is in accordance with the development plan as a whole, and the material considerations do not indicate that a decision should be made other than in accordance with it. The appeal is therefore allowed.

R Cahalane

INSPECTOR

⁴ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

Schedule of Conditions

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be constructed in accordance with the following plans and documents:

Location Plan - 23 330 106 P4; Block Plan – 23 330 105 P4; Existing and Proposed Plans – 23 330 100 P6; Proposed Garage Plans – 23 330 101 P4; Design and Access Statement - Revision: P02 dated June 2024.

3) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

4) Prior to the commencement of development hereby approved, details of surface and foul water drainage works shall be submitted to and approved in writing by the Local Planning Authority (LPA). Before these details are submitted an assessment shall be carried out of the potential for disposing of surface and foul water by means of a sustainable drainage system and the results of the assessment provided to the LPA. Where a sustainable drainage scheme is to be proposed, the submitted details shall:

a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b. provide a management and maintenance plan for the lifetime of the development to secure the operation of the scheme throughout its lifetime.

Prior to the occupation of the dwelling hereby approved, the agreed surface and foul water drainage works shall be carried out and shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

5) Development shall proceed in accordance with the mitigation measures set out in Section 6.2 'Bats' of the Phase II Bat Surveys & Mitigation Strategy (Ecosupport, October 2024), unless varied by a Licence issued by Natural England. Thereafter, the replacement bat roost features and enhancements shall be permanently maintained and retained in accordance with the approved details.

6) Details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The lighting scheme should be in accordance with Guidance Note 08/23 produced by the Bat Conservation Trust and Institute of Lighting Professionals. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no extensions or roof additions permitted by Classes A, AA and B of Part 1 of Schedule 2 to the Order shall be undertaken.