



Appeal Decision

Site visit made on 11 June 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 August 2025

Appeal Ref: APP/L1765/W/25/3362385

Land at Rozel Forge, Stapleford Lane, Durley, Southampton SO32 2BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Ms. Deborah Stevenson against the decision of Winchester City Council.
 - The application Ref is 25/00102/PIP.
 - The development proposed is described as 'application for permission in principle for residential development for up to two new dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted.
4. Under Article 5B of The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order), permission in principle must not be granted for development which is habitats development. Habitats development means development which is likely to have a significant effect on a qualifying European site, as set defined by regulation 8 of the Conservation of Habitats and Species Regulations 2017 (the Regulations), either alone or in combination with other plans or projects. There is a specific process to deem what would constitute habitats development which I must assess.

Main Issues

5. In light of the above, the main issues are whether the proposal would be habitats development under Article 5B of the Order; and in the event that permission in principle can be granted for the proposed development, whether the site is suitable having regard to its location, the proposed land use and the amount of development.

Reasons

Whether habitats development

6. The appeal site is located in the East Hampshire sub catchment of the Solent catchment area. Much of the Solent coastline is protected by environmental designations including 3 Special Protection Areas and a Special Area of Conservation (European sites) and is therefore protected under the Regulations. The qualifying features include internationally important species of wildlife, including populations of waders and wildfowl which spend the winter on the Solent.
7. The PPG¹ is clear that permission in principle must not be granted for development which is habitats development. It sets out that for sites where development is likely to have a significant effect on a qualifying European site or a European offshore marine site without any mitigating measures in place, the competent authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle. If the competent authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle. While the effect on the European sites was not specifically put forward by the Council as a reason for the refusal of the scheme, as the decision maker, I am the competent authority in this instance.
8. There is no dispute that the proposal would, in combination with other development, be likely to have a significant adverse effect on habitats and species and therefore the integrity of the European sites, through a net increase in population. The effects include the discharge of additional nutrient loads into the surrounding water network, which is likely to diminish water quality through nutrient pollution.
9. The appeal submissions indicate that the Council's strategy for avoiding such adverse effects is through the purchase of nitrogen mitigation credits, to ensure the development would achieve nutrient neutrality, which is secured through the imposition of a Grampian condition when granting planning permission. However, it is not possible for conditions to be attached to a grant of permission in principle. Thus, it is suggested by the appellant that in this case, such a condition could be applied at the technical details stage, to secure the appropriate mitigation and avoid any likely significant effects on the integrity of the European site arising from the appeal proposal. However, even if the proposed mitigation was acceptable in principle, in the absence of a legal mechanism to provide for the purchase of the credits at the permission in principle stage, there is no certainty that the mitigation measures would be secured.
10. As the competent authority, I have carried out an appropriate assessment of the likely effect of the proposed development, as required by the Regulations. Consequently, in these circumstances, and in the absence of appropriate mitigation, I cannot be satisfied, beyond reasonable scientific doubt, that there would not be any significant adverse effects on the integrity of the European sites. As such, the proposal would constitute habitats development, which is excluded from a grant of permission in principle under Article 5B of the Order.

¹ Paragraph: 005 Reference ID: 58-005-20190315

Location

11. Given that the appeal proposal is not a form of development for which permission in principle can be granted, it would not be appropriate for me to assess the suitability of the site for housing having regard to its location, the proposed land use and the amount of development, as part of this appeal.

Conclusion

12. For the reasons given above the appeal should be dismissed.

E Worley

INSPECTOR