



Appeal Decision

Site visit made on 24 June 2025

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/L1765/W/25/3361757

Land to northeast of The Farmers Home, Heathen Street, Durley, Southampton SO32 2BT

- 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 S Hussey, Oakdene UK Developments Ltd against the decision of Winchester City Council.
 - The application Ref is 24/01751/FUL.
 - The development proposed is construction of 4 single-storey, timber-clad cabins for use as holiday lets.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 4 single-storey, timber-clad cabins for use as holiday lets at land to northeast of The Farmers Home, Heathen Street, Durley, Southampton SO32 2BT, in accordance with the terms of application Ref 24/01751/FUL and subject to the Schedule of Conditions to this Decision.

Applications for costs

2. An application for costs was made by Mr S Hussey, Oakdene UK Developments Ltd against Winchester City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) Whether the proposal secures a Biodiversity Net Gain ('BNG'); and
 - iii) Whether the development would be likely to have a significant effect on the integrity of the Solent and Southampton Water Special Area of Conservation ('SAC'), Special Protection Area ('SPA') and Ramsar Site. (the Solent').

Reasons

Character and appearance

4. There appears to be no dispute between the main parties that the appeal site is located within the countryside. I have also considered this. Policy MTRA4 of the 2013 Local Plan Part One ('LPP1'), which governs development in the countryside,

defines this as land outside the built-up areas of Winchester, Whiteley, Waterlooville, and settlements covered by Policies MTRA2 and MTRA3.

5. LPP1 Policy MTRA3, identifies Durley as a settlement without a defined boundary. As such, determining whether the appeal site lies within Durley is a matter of planning judgement.
6. Representations before me include a nearby appeal decision where the Inspector described Durley as a dispersed settlement with two main clusters: linear development along Durley Brook Road (including a primary school), and a more compact area northeast of The Farmers Home pub. Based on this and my observations, the appeal site lies between The Farmers Home pub and the more compact built area to the northeast of this. Development along the northern side of Heathen Street is characterised by sporadic buildings, open fields, and gardens. I therefore consider the site to be beyond Durley's built-up area and within the countryside for the purposes of LPP1 Policy MTRA4.
7. Policy MTRA4 of LPP1, supports certain forms of rural development, including small-scale sites for low-key tourist accommodation, where such proposals are appropriate to the site, its location, and setting. This support is conditional on the development not causing harm to the character or landscape of the area, neighbouring uses, or resulting in inappropriate levels of noise, light, or traffic generation.
8. The above Policy does not define 'small scale sites for low key tourist accommodation appropriate to the site, location and the setting'. Therefore, this is assessed on a case-by-case basis. In my view this refers to modest, sensitively designed tourism developments that are carefully tailored to fit within their immediate environment.
9. Despite comprising an undeveloped field, the appeal site is flanked by a small cul-de sac of bungalows on one side with more substantial dwellings located opposite. In this context, the proposal is for a limited number of lodges and the appeal site is of a sufficient size to accommodate these without appearing cramped or intensive.
10. The lodges are simple in form and single storey. Because of this and the use of timber clad walls with minimal glazing, these would have a low key design and arrangement, which is a kin to a small cluster of holiday lodges. This, combined with the retention of most of the hedgerows, would give the scheme a more restrained design relative to the nearby residential developments. As such, the scheme does represent a 'small scale site for low key tourist accommodation'.
11. The appeal site is currently free from development, and together with the garden of The Farmers Home public house, it contributes to a pleasant visual break along this side of Heathen Street. However, because only part of this open space would be developed and combined with the single-storey scale of the proposed lodges, the proposal would maintain the site's green character and blend harmoniously with the surrounding countryside, without causing any unacceptable visual impact. The retention of mature hedgerows would help preserve the existing field pattern.
12. The proposal includes hardstanding and parking areas. Given the immediate context, these features are not inherently detrimental to the character of the local area or wider countryside. This is because the dwellings opposite incorporate

similar features. Furthermore, the proposal is supported by a comprehensive landscaping scheme, which includes using permeable materials for such areas to help to preserve the rural aesthetic.

13. The proposal would generate some additional traffic and noise. Even so, in the context of nearby residential development, the public house with its associated parking and outdoor garden/play area, I do not consider that this proposed small scale development would individually or cumulatively result in any significant noise and traffic disturbance.
14. I have noted concerns about noise arising from potential group bookings of the appeal site. However, the site's spacious layout and limited sizes of the individual cabins reduce the likelihood of disturbance. Also, noise issues would be addressed through nuisance legislation and the requirement for a Site Management Plan.
15. For the above reasons, the proposal would not harm the character and appearance of the area and accords with Policy MTRA4 of LPP1.

Biodiversity Net Gain

16. The proposed development is subject to the Biodiversity Net Gain requirement and the application was supported by a Biodiversity Metric.
17. I note that the Council's Ecologist had suggested that further information was required. Nonetheless, and having regard to the Council's representations on this matter during the appeal, I am satisfied that subject to conditions requiring the submission and approval of a Biodiversity Gain Plan and Habitat Management and Monitoring Plan, which would need to be agreed prior to any development commencing, the proposed scheme would secure a minimum of 10% net gain in biodiversity in accordance with schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and similar requirements of the National Planning Policy Framework ('the Framework').

The Solent

18. The appeal site lies within 5.6km of the Solent. Tens of thousands of coastal birds fly from as far as Arctic Siberia to spend the winter on the Solent. They need to be able to feed and rest undisturbed, if they are to survive the winter and fly back to their summer habitats. Amongst other matters, the Solent contains sites designated to safeguard these birds.
19. The Council has been made aware by Natural England ('NE') that there are potential strategic issues regarding the level of nitrogen and phosphorus deposition in the River Itchen SAC and Solent SPA resulting in evidence of eutrophication, caused by agriculture, existing communities and proposed development. New housing development therefore needs to be appropriately assessed to address the uncertainty about the deterioration of the water environment.
20. The Solent is protected by the Conservation of Habitats and Species Regulations 2017 (as amended). In order for development to be acceptable, these Regulations require it to be demonstrated that the proposal will have no likely significant effect on the Solent, either alone or in combination with other proposals.
21. Adopting a precautionary principle and without mitigation, new residential development is likely to have a significant effect on the sensitive interest features of

the habitat sites, from human pressures and increased nitrogen levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Regulations, to conduct an Appropriate Assessment ('AA') in relation to the effect of the development on the Solent.

22. The development is projected to generate 6.05 kilograms of nitrogen annually through wastewater discharge. Elevated nitrogen levels contribute to eutrophication in coastal waters, resulting in excessive algal growth that disrupts bird feeding grounds and impairs reproduction. To offset this impact, the appellant has reserved an equivalent amount of nitrogen mitigation through the Meon Springs nutrient mitigation scheme. This scheme, involves converting arable land, typically reliant on nitrogen-rich fertilisers into woodland and wetland areas. This change prevents further nitrogen input and promotes the absorption of existing nitrogen in the soil. The appellant has entered into a formal allocation agreement with the mitigation provider, and the submitted and complete Unilateral Undertaking ('UU') would secure the implementation of this mitigation should the appeal be allowed.
23. Whilst the Council acknowledges that the site drains to the River Hamble, they have suggested that the Meon Springs nutrient mitigation scheme cannot be used to mitigate the nutrients in the wastewater from the appeal proposal.
24. However, the appellant has referred me to an Environment Agency produced map of the 'East Hampshire' catchment area within which the site falls. While the site does drain to the River Hamble through Southern Water's Peel Common Wastewater Treatment Works, the appellant advises that this river is one of many forming the larger 'East Hampshire' catchment area. Also included in the submissions before me are two excerpts from the Partnership for South Hampshire's online guidance in relation to nutrient mitigation schemes. This partnership plays a coordinating role, liaises with NE, and provides advice with regard to catchment areas and available nutrient mitigation schemes.
25. As part of undertaking my AA, I have also consulted NE who have confirmed that according to the information provided by the Partnership for South Hampshire on the currently operational Nutrient Mitigation Schemes, the Meon Springs scheme is applicable to developments within the East Hampshire Rivers catchment. As the appeal site is within the East Hampshire Rivers catchment and will drain to the Peel Common Wastewater Treatment Works, the 'Meon Springs' scheme could be used to mitigate nutrients from the appeal site. Therefore, and in the absence of any substantive evidence to the contrary, I am satisfied that the proposed mitigation is acceptable.
26. In addition to water quality concerns, the Solent is vulnerable to recreational disturbance caused by increased human activity associated with residential development. Such disturbance can reduce food intake among bird species, affecting their weight and breeding success. The Council operates a mitigation strategy known as "Bird Aware," which requires financial contributions from developers of overnight accommodation. The appellant has committed to a payment of £2,684, based on the number of cabins proposed, and this contribution is secured within the UU prior to the commencement of development.
27. The UU provides sufficient certainty that the development will not result in likely significant effects on the integrity of the Solent.

28. Based on the evidence before me, I am satisfied that the obligations in the submitted UU are necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. They accord with the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended).
29. The proposal therefore accords with LPP1 Policies CP15 and CP16, which require the protection and enhancement of biodiversity across the district, including designated sites.

Other Matters

30. A number of third-party representations raised concerns beyond the principal planning issues, including highway safety, drainage, ecology, residential amenity, and the site's suitability for tourist accommodation.
31. In relation to highway safety, concerns were expressed regarding increased traffic, the site's proximity to a junction, and the condition of surrounding roads. However, technical evidence confirms that visibility at the proposed access meets national standards, and the anticipated traffic increase is modest. Parking provision is policy-compliant, and vehicles, including refuse trucks, would be able to manoeuvre safely within the site. The absence of footpaths is noted but reflects the existing rural context and does not present a demonstrable safety risk. Highway safety was not cited in the Council's reasons for refusal, and no substantive evidence has been presented to justify concern.
32. The site lies within Flood Zone 1, indicating a low risk of fluvial flooding. A bespoke Sustainable Drainage System will be required to manage surface water runoff, and Southern Water has confirmed capacity for foul and surface water disposal.
33. The submitted ecological surveys confirm low bat activity on the grassland but identify hedgerows as suitable habitat for hazel dormice. Mitigation measures, including a Construction Environmental Management Plan and external lighting controls, will be secured by condition. Biodiversity enhancements such as bird boxes, hedgehog homes and dormouse nest boxes will also be implemented. Subject to these measures, the development is not expected to result in any unacceptable ecological harm.
34. One of the proposed lodges and its amenity space would be located adjacent to the bungalows in White Gates. In particular, this would be about 7m from the flank wall of the bungalow at 10 White Gates. Given the single storey scale of these buildings and intervening boundary treatments, the proposed arrangement is unlikely to affect the living conditions of the occupiers of this property or any others in White Gates.
35. The site's rural location has prompted questions about its suitability for tourism use. However, its proximity to the Farmers Home Public House and nearby public footpaths supports sustainable travel forms along with access to some local facilities.
36. Having considered all representations, I am satisfied that none of the matters raised either individually or cumulatively are sufficient to justify dismissal of the appeal.

Conditions

37. In imposing conditions, I have included the standard timescale condition for the implementation of the planning permission. A condition specifying the relevant plans and drawings is necessary as this provides certainty.
38. A condition requiring details of foul and surface water drainage is necessary to prevent pollution and manage flood risk.
39. Conditions requiring details of external materials for the development and the provision and management of the proposed landscaping scheme are necessary to ensure the development complements the rural setting and maintains the area's visual character. Similarly, a condition requiring that the hedgerow along the site's front boundary is retained save for any access requirements is to preserve the site's rural character. Also, to promote sustainable construction, a condition requiring measures to reduce water consumption is necessary.
40. The proposal has been assessed and found to be acceptable with regard to the development plan on the basis of its use as holiday accommodation. Therefore, conditions requiring that the approved lodges are only used for holiday accommodation, with restrictions on occupancy duration and frequency to prevent permanent residential use are necessary and justified.
41. The Biodiversity Gain Plan and the Habitat Management and Monitoring Plan are necessary to secure the required BNG and support long-term ecological stewardship. These conditions would also incorporate the mitigation and enhancement measures identified in the submitted ecological surveys and reports.
42. A Construction Environmental Management Plan is required to safeguard the living conditions of neighbours and protected species and habitats.
43. A condition requiring that the proposed access arrangements are provided is to ensure highway safety and the satisfactory functioning of the development.
44. The requirement for a Management Plan for the site is necessary to mitigate any impacts from the proposal in the interests of safeguarding the living conditions of neighbours.
45. A condition requiring the details of external lighting for the development is necessary to safeguard the character and appearance of the area and to protect nocturnal animals sensitive to external lighting (principally bats).
46. Because matters relating to nutrient mitigation would be dealt with through the submitted UU, the suggested condition to secure nutrient mitigation is not necessary.
47. Conditions 4, 5, 6, 7, 8 and 9 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for these to take the form of 'pre-commencement' conditions to have their intended effect. Where necessary and in the interests of clarity, flexibility and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

48. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

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 approved shall be constructed in accordance with the following plans:
Site Plan, drawing no SL.01;
Plans and Elevations Plot 1, drawing no FP.01;
Plans and Elevations Plot 2 & 3, drawing no FP.02;
Plans and Elevations Plot 4, drawing no FP.03;
Proposed Site Access, drawing no ITB18126-GA-001; and
Landscape Plan, drawing no 518-1-R3.
- 3) The development hereby permitted shall not commence until, a scheme for the proposed means of foul sewerage and surface water disposal has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any of the buildings hereby permitted. Thereafter, the development shall be undertaken in accordance with the approved scheme and maintained as such.
- 4) The development hereby permitted shall not commence until, a Biodiversity Gain Plan has been submitted to and approved in writing by the local planning authority: The Biodiversity Gain Plan shall include the following details.
 - (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
 - (b) the pre-development biodiversity value of the onsite habitat;
 - (c) the post-development biodiversity value of the onsite habitat;
 - (d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
 - (e) any biodiversity credits purchased for the development; and
 - (f) any such other matters as the Secretary of State may by regulations specify.
- 5) The development hereby permitted shall not commence, until a Habitat Management and Monitoring Plan (the HMMP) has been submitted to and approved in writing by the local planning authority. This shall be prepared in accordance with the approved Biodiversity Gain Plan under Condition 4. The HMMP shall include the following details:
 - (a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - (b) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;The approved habitat creation and enhancement works shall be implemented in full within six months of the date of their written approval. Notice in writing shall be given to the local planning authority once the habitat creation and enhancement works as set out in the HMMP have been completed.

- 6) The development hereby permitted shall not commence until, a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall outline how construction will avoid, minimise, or mitigate the effects of physical damage, pollution, dust, noise, and lighting disturbance. This shall include a plan showing the construction area as well as the specification and location of any necessary fencing and any precautionary methods of works for hedgerows on site and any mitigation measures for badgers and nesting birds. Thereafter, the development hereby permitted shall be undertaken in accordance with the approved CEMP.
- 7) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the proposed holiday lodges; 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.
- 8) Prior to the first occupation of the holiday lodges the site access arrangements as shown on approved drawing - Proposed Site Access plan: drawing no ITB18126-GA-001 shall be completed.
- 9) Prior to the occupation of the holiday lodges hereby permitted, information and measures (including a timetable for implementation) demonstrating that the development will deliver energy and water efficiency shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved measures shall be implemented in accordance with the agreed timetable.
- 10) Prior to the first occupation of any of the holiday lodges hereby permitted, a Management Plan for the proposed use shall be submitted to and approved in writing by the local planning authority. The Management Plan shall include:
 - (a) A Noise Management Plan including measures taken by the operator to safeguard neighbours from noise and disturbance associated with the development;
 - (c) Measures to safeguard the living conditions of neighbours, including conditions of booking and site signage.

Thereafter, the development shall be operated in accordance with the approved Management Plan.

- 11) The holiday lodges hereby permitted shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons exceeding a maximum period of 4 weeks for no more than 3 times per year, with a break between each occupation, by the same persons of at least 4 weeks. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.
- 12) The landscaping for the development site, as shown on the approved Landscape Plan: drawing no 518-1-R3 shall be completed within the next available planting

season following the completion of the holiday lodges or as otherwise agreed in writing with the local planning authority.

If within a period of 7 years a tree or plant dies, becomes infected or defective, an example of the same species must be planted in the same location within the next available planting season.

- 13) The hedging along the southeastern boundary of the site (facing Heathen Street) shall not be removed at any time without the written consent of the local planning Authority, except for that required to widen the access as shown on the approved Proposed Site Access Plan: drawing no ITB18126-GA-001.
- 14) Prior to its installation, the details and specifications of any external lighting for the development site shall be submitted to and approved in writing by the local planning authority. Thereafter, any external lighting shall be installed and maintained in accordance with the approved details and specifications.