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## Appeal Decision

Hearing held on 9 September 2025

Site visit made on 9 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

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**Appeal Ref: APP/L1765/W/25/3366702**

**Land adjacent the Down House, Harestock Road, Winchester, Hampshire  
SO22 6NY.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Mark Stephen and Nicholas Carl Welch against Winchester City Council.
  - The application Ref is 24/02359/OUT.
  - The development proposed is five self build dwellings and the creation of a new access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is in outline with all matters reserved except for access. Appearance, landscaping, layout and scale are matters reserved for future consideration. Accordingly, whilst some drawings have been submitted showing a layout and elevations, these are for illustrative purposes only.

### Main Issues

3. Although there is no formal decision from the Council, they have offered putative reasons for refusal. Based on these, the main issues are:
  - i) The effect of the proposal on the character and appearance of the area including the Winchester – Littleton, settlement gap;
  - ii) Whether the appeal site is in a suitable location for housing with regard to the spatial strategy for the area;
  - iii) The effect of the proposal on trees;
  - iv) Whether the development would be likely to have a significant effect on the integrity of the Solent Special Area of Conservation, Special Protection Area and Ramsar Site ('the Solent').

### Reasons

#### *Character and appearance*

4. The appeal site ('the site') comprises a field in agricultural use, bounded by trees and shrubs. There are a number of storage containers, a greenhouse and fenced off

areas for pigs within this field. The nearest residential properties relative to the appeal site are Down House to the immediate north, Highland House to the west and those on the opposite side of Harestock Road. Access into the site is via an established field gate off Harestock Road.

5. The Winchester Landscape Character Assessment (2022) ('LCA') places the appeal site within the Sparsholt Woodlands Landscape Character Area, which it describes as being characterised by mixed downland scale with undulating well-drained chalkland. Relevant key characteristics of value for this area, include its strong rural character, dominated by woodlands with a strong hedgerow network, which contribute to the rural setting to Winchester.
6. Key issues which have been identified with the LCA include new small-scale development within and on the fringes of Winchester and increased artificial light on the tranquil rural quality.
7. Furthermore, the appeal site is on the southern extremity of the Winchester – Littleton, settlement gap. The character of this gap is mostly of arable and open fields with hedgerows delineating their boundaries.
8. Because the appeal site is in agricultural use and free of any significant built development, this retains a largely open and rural character. The existing trees and hedgerows contribute to this but also give the site a degree of enclosure. Overall, the appeal site is reflective of this part of the LCA, and with the nearby woodland, these reinforce the rural setting to this part of Winchester.
9. The appellant suggests that the storage containers are an eyesore for neighbours. However, these do not dominate the site and are also screened to an extent. Nevertheless, the storage containers do diminish the appeal sites landscape quality. Also, a Strategic Housing and Land Availability Assessment ('SHLAA') which considered the site, found that this had a low landscape sensitivity and was assessed as being capable of supporting some development without damage to the surrounding character.
10. The LCA recommends that new developments in this character area should integrate into the surrounding landscape through the use of native planting and thoughtful siting and detailed design. The use of traditional local materials is encouraged along with the conservation and promotion of traditional boundary treatments.
11. Whilst the application is in outline, the submitted plans and drawings provide an indication of the scheme's density, design and future layout. These show that the proposed dwellings would be served via a centrally located single access. The dwellings would be set back from Harestock Road, which would enable the trees and hedgerow along the frontage to be largely retained. Given that the proposed access point is fixed and the proposal is for a maximum of five dwellings, it is likely that any final scheme would reflect this illustrative layout.
12. Although the surrounding development pattern is predominantly linear, with dwellings accessed individually, the proposed cul-de-sac layout still results in a broadly linear arrangement of dwellings with parking positioned at the front. Therefore, notwithstanding the guidance in the Council's High-Quality Places Supplementary Planning Document, which advises against cul-de-sac layouts in rural housing schemes, the proposed arrangement represents an appropriate response to the specific circumstances of the site and its surroundings.

13. The Council have expressed concern about the proportion of the site occupied by the access drive, parking areas, and garages. Given that the proposal is currently at outline stage, and considering both the overall size of the site and the scale of development proposed (five dwellings), I see no reason why a detailed scheme submitted at the reserved matters stage could not be designed to reinforce the green edge, soften the development's visual impact, and enable it to integrate effectively with its rural surroundings, including retained vegetation.
14. While the proposal would introduce increased activity and lighting relative to the site's current agricultural use, Harestock Road already experiences considerable traffic and includes lighting and activity associated with nearby residential properties. In this context, the addition of five dwellings is unlikely to result in a significant intensification of activity. Moreover, the retention of landscaping and the implementation of lighting controls, particularly in the interest of safeguarding biodiversity are likely to mitigate any adverse effects arising from new lighting. Additionally, the appeal site occupies a relatively modest frontage in comparison to the wider road, which would help limit the visual impact of the development in this location.
15. As previously noted, the appeal site lies within the Winchester–Littleton settlement gap and would represent a physical incursion into it. Due to the presence of existing linear development along the southern boundary of the gap, and the likelihood that the proposal would follow a similar pattern, development along here is unlikely to unacceptably compromise the overall physical extent of the gap. Furthermore, considering the surrounding development and the intention to retain the trees and hedgerows that define the site's boundaries, the scale of development proposed combined with new landscaping, would be unlikely to undermine the visual integrity or overall function of the settlement gap.
16. Consequently, the proposal would not unacceptably harm the character and appearance of the area, including the Winchester – Littleton, settlement gap. As such, at this stage, I am satisfied that the proposal would not be contrary to Policy DM15 of the Winchester District Local Plan Part 2 – Development Management and Site Allocations ('LPP2') which amongst other things says that developments should respect the qualities, features and characteristics that contribute to the distinctiveness of the local area. As such, the proposal also aligns with Policy DM23 of LPP2 as far as this seeks to preserve the area's character.
17. The proposal would also accord with the broad aims of Policy CP18 of the Winchester Local Plan Part 1 – Joint Core Strategy ('LPP1') which seeks to retain the physical and/or visual function provided by the generally open and undeveloped nature of the settlement gaps.
18. The Council has referred me to LPP2 Policy DM16, this largely relates to matters of detailed design and landscaping and therefore is not directly relevant to this particular outline planning application. LPP2 Policy DM18 seeks to make appropriate provision for access and parking and on the evidence available to me the Council has not raised any issue in respect of this. As such, I find no conflict with these policies.

*Suitable location for housing*

19. Based on the first putative reason, the Council is of the view that the proposed dwellings would be in an unsustainable countryside location and would give rise to significant harm to its character.
20. Policy DM1 of LPP2 forms part of the spatial strategy for the area. This says that development that accords with the development plan will be permitted within the defined boundaries of certain settlements, which includes Winchester Town. Overall, this Policy seeks to consolidate development in built-up areas and supports a sequential approach to development by establishing the capacity of sites within existing settlement boundaries in the first instance, before allocating sites outside and adjoining existing settlement boundaries to meet needs.
21. The appeal site is located on the west side of Harestock Road and is outside the settlement boundary of Winchester Town, which is on the east side of Harestock Road.
22. Policy MTRA4 of the LPP1 seeks to limit development to that which has an operational need for a countryside location. This includes, re-use of buildings, expansion of existing businesses and low-key tourism development. The proposal for five self-build dwellings does not meet the requirements of this Policy.
23. On the information before me, the appeal site is about 800m or approximately a 10 minute walking distance of a number of facilities and services, including convenience retail and food outlets, nursery, primary and secondary schools, a pub and community centre, places of worship, car repair garage, veterinary surgery, two care homes, a scout hut and play and recreation space.
24. At the Hearing, I was provided with information of bus stops and associated bus services relative to the site. As such, some of the above facilities would be accessible via public transport. Also, some of the nearby bus services would allow residents access into Winchester City Centre, which incorporates a concentration of shops, services and facilities.
25. Therefore, and notwithstanding the findings of the SHLAA in respect of the site's accessibility, in my view, its location allows access to a range of shops, services and facilities by means other than private motor vehicles. In reaching this conclusion, I am mindful that the Framework says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
26. Based on the reasons outlined above and my findings on the first main issue, while the proposal does not align with the Council's spatial strategy for the area, it would not lead to development in an unsustainable countryside location or cause significant harm to the character of the area.
27. Nevertheless, because the appeal site is located outside the settlement boundary and the proposal is for housing, this is contrary to Policy MTRA4 of LPP1 and Policy DM1 of LPP2.

### *Trees*

28. There is a row of trees and shrubs along the front boundary, as well as to the west (within the blueline ownership site) and to the north and south. As part of the appeal, the appellant has submitted an Arboricultural Method Statement ('AMS').
29. In summary, the AMS concludes that a total of 25 individual trees and 2 hedges will be retained within and adjacent to the site and that only 1 tree (Tree 18) which is a 'U' grade tree is recommended for removal irrespective of any proposed layout for the site. Furthermore, the AMS confirms that trees identified for retention would be afforded adequate protection, ensuring their safe and healthy retention during the development process.
30. Accordingly, and subject to reserved matters, should this appeal succeed, the proposal would safeguard retained trees and accords with policies DM15 and DM24 of LPP2. Amongst other things, these policies support proposals which conserve and enhance the landscape framework and safeguard special trees and important hedgerows.

### *The Solent*

31. The Solent coastline is internationally important for its wildlife interest. This importance has been recognised by international protective designations including four Special Protection Areas (SPAs) – the Portsmouth Harbour SPA, the Solent and Southampton Water SPA, the Chichester and Langstone Harbours SPA, and the Dorset and Solent Coast SPA. These SPAs have been designated predominantly for the protection of the large numbers of waders and wildfowl which spend the winter on the Solent.
32. The appeal site lies within the catchment 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.
33. The Council has been made aware by Natural England ('NE') that there are potential strategic issues regarding the level of nitrate and phosphate deposition in the Solent resulting in evidence of eutrophication (excess mats of dense green algae which deplete oxygen as these subsequently decay) 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.
34. The Solent is safeguarded under the Conservation of Habitats and Species Regulations 2017 (as amended). These Regulations require that, for development to be permitted, it must be demonstrated with certainty that the proposal will not have a likely significant effect on the Solent, either alone or in combination with other plans or projects.
35. The proposed development is likely to have a significant effect on the sensitive interest features of the Solent, due to increased phosphate and nitrate levels, either alone or in combination with other proposals. This is most likely as a consequence of wastewater arising from the development. Therefore, 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.

36. The Council has adopted an interim strategy to address nutrient impacts through the use of Grampian conditions. However, In this case, the submitted UU includes an obligation requiring that a mitigation package is submitted to the Council, agreed and implemented prior to the occupation of the development.
37. The appellant's Nutrient Assessment and Budget concludes that the proposed development will yield a net nitrogen nutrient reduction of about 11.45 Kilograms of total Nitrogen per year and therefore exceeds the balance point to achieve neutrality and no mitigation is required. The calculations indicate that there would be a net phosphorus increase of nearly +0.27 Kilograms of Total Phosphorus per year from the proposed development. As such, the appellant proposes to provide a financial contribution towards a strategic project to secure offsite mitigation.
38. The application form says that the proposed development would be linked to a main sewer (public sewer). However, the supporting statement with the application says that wastewater will be dealt with on site through either septic tank or anaerobic digesters.
39. During the application process, the Parish Council sought clarification on how the wastewater would be drained from the site, given their understanding that properties in this section of Harestock Road are served by septic tanks. In response to this, the appellants confirmed that foul drainage would be via a water treatment plant not the main sewer. Subsequently, the Nutrient Assessment and Budget says that foul water discharge from the site would outfall to the public sewer network and will be conveyed to Southern Water's Harestock Wastewater Treatment Works about 1.5 Km northeast of the site. In part, the nutrient budget calculations are predicated on this.
40. I questioned the above inconsistencies at the Hearing. The appellants confirmed that wastewater from the development would be discharged into the public sewer. However, the Council responded by advising that no public sewer exists in close proximity to the site. In support of this, I was referred to sewer mapping data, which confirms that the nearest connection point is a considerable distance away. In the absence of any technical details or evidence explaining how a connection to the public sewer would be achieved, I am not satisfied that the proposed development can be served in this way.
41. Although some examples of strategic projects to secure offsite mitigation have been referred to in the Nutrient Assessment and Budget, there is no certainty as to which of these would be available and utilised for the suggested phosphorous mitigation.
42. In light of the concerns outlined above, the submitted information fails to provide sufficient certainty regarding the proposed nutrient mitigation measures. As a result, it cannot be concluded with confidence that adverse effects on the integrity of the protected sites would be avoided. This introduces a significant risk of granting a planning permission that may ultimately prove unimplementable.
43. While NE has not raised an objection, it remains my responsibility as the competent authority to be satisfied, at the point of decision, that the development will not adversely affect the integrity of the Solent. In the absence of a fully developed and evidenced mitigation scheme demonstrating nutrient neutrality, there is insufficient

information to complete an AA. Accordingly, the proposal fails to meet the requirements of the Regulations and cannot be permitted.

44. For the reasons outlined above, the proposal conflicts with Policies CP15 and CP16 of LPP1, which seek to protect and enhance biodiversity across the district, including designated sites.

### *Other Considerations*

#### Five year housing land supply ('5YHLS')

45. The main parties' disagreement and calculations in respect of 5YHLS are set out in the Statement of Common Ground and were discussed at the Hearing.
46. The Council assert that since the completion of its committee report for this application, its 5YHLS position has been updated following on from the Inspector's questions arising from the Examination of the emerging Winchester District Local Plan 2020-2040 ('the Emerging Plan'). To this end, for the 5-year period 2025 – 2030, the Council advises that the housing land supply across the District is about 5.4 years.
47. The Council clarified that the Emerging Plan is progressing in accordance with the Frameworks transitional arrangements. in particular, paragraphs 234 and 235. Further, that the Council expects to adopt the Emerging Plan in late 2025.
48. My understanding is that in anticipation of the forthcoming adoption of the Emerging Plan, the Council has applied the current Standard Method ('SM') figure for Winchester of 1157 dwellings per annum ('dpa') for the first year (2025-26), on the basis that this would be replaced by the Emerging Plan from the end of 2025. with a lower housing requirement (773 dpa). The Council's calculation takes account of past 'over-provision' and applies a 5% buffer to the SM figure for year 1 and a 20% buffer to the requirement for years 2-5.
49. The Council have also referred me to 'Inspector Note 16' dated 19 September 2025, which relates to an update on the Emerging Plan. In summary, the Inspector advises that subject to main modifications (MMs), the Emerging Plan is likely to be capable of being found legally compliant and sound. More specifically, the Inspector confirms that the Council's calculation of Local Housing Need accords with the SM and is therefore sound.
50. The appellants 5YHLS calculations are based on the current SM figure of 1157 dpa being applied for years 1-5 with a 5% buffer. On the information before me this approach accords with the Framework and the Planning Practice Guidance in respect of calculating 5YHLS for the purposes of decision making.
51. Because I am not party to all the submissions and discussions that have taken place as part of the Emerging Plan, I do not dispute the Council's approach in calculating the 5YHLS for the purposes of plan making. Nonetheless, the examination of the Emerging Plan has not yet concluded and consultation on the MMs is still taking place. As such, at present, and for the purposes of this appeal and decision making, I have relied on the appellant's assessment of the Council's 5YHLS.
52. In accepting the appellants position that the Council cannot demonstrate a 5YHLS, this would mean that Paragraph 11d) of the Framework' is engaged. However, because the application of policies in the Framework as far as they protect habitat

sites provide a strong reason for refusing the development proposed, which is reinforced by paragraph 195 of the Framework, the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.

### Self-Build and Custom Housing

53. The Self Build and Custom Housebuilding Act 2015, requires local planning authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. The Framework also supports small sites to come forward for community-led development for housing and self-build and custom-build housing.
54. The Council's position is that as of 30 October 2024, Part 1 of the self and custom build register records a demand for 407 properties, of which 329 arose in the first six base periods ending 30 October 2021. As of 30 October 2024, permissions have been granted for 240 self and custom build properties. Therefore, the Council has not permitted sufficient custom and self-build properties to meet the requirement that demand recorded on Part 1 of the register. The backlog as of 30 October 2024 of 89 dwellings (329- 240) will be added to the demand recorded in the year ended 30 October 2022 (40), resulting in a requirement for 129 dwellings to be permitted by 30 October 2025.
55. The appellants' submissions include a Self-Build and Custom Housebuilding Appeal Statement. The key findings of this are that: a) Based on other sources of information, demand for Self-Build and Custom Housing in Winchester exceeds that evidenced through the Council's registers; b) that the Council has underperformed in meeting its statutory duty, citing a cumulative shortfall of 441 plots based on the number of entries added during each base period. This interpretation aligns with the legislation, which requires authorities to provide sufficient serviced plots based on entries added during each base period and not on retrospectively revised figures; and c) that not all permissions cited by the Council meet the criteria for addressing the statutory duty.
56. In light of the appellants Self-Build and Custom Housebuilding Appeal Statement and in the absence of any strong evidence to the contrary, I concur that there is a substantial unmet need for serviced plots for self-build and custom housebuilding in Winchester and the Council have a substantial shortfall in the number of permissions granted to meet this need. Accordingly, the Council are failing in their obligations and their duty under the Self-build and Custom House-building Act 2015.
57. The appellants have been searching for self builds plots over a considerable period and along with other family members are on the Winchester City Council Self Build register. The submitted UU includes an obligation to ensure that the proposed dwellings are secured as self-build houses in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended).
58. The delivery of five self-build dwellings would make a modest but important contribution to the Districts supply for this type of housing. This would also positively contribute towards meeting the Council's overall housing land supply and boosts the delivery of homes in accordance with the Framework.

59. The proposal would create employment during the build phase. Thereafter, new residents would enhance or maintain the vitality of rural communities, in accordance with the Framework.
60. The development is said to prioritise sustainability, including features such as oak frame construction and opportunities for residents to access local food production. However, sustainable design is a standard expectation under national and local policy. Accordingly, I attach limited weight to these environmental benefits.
61. Nevertheless, when taking account of my findings in respect of the Council's housing land supply position, which indicates a housing shortage, including the provisions of self-build and custom housing plots, I attach considerable importance to the provision of the new self-build housing and the social, economic and environmental benefits associated with this, which also benefits from some local support. For these reasons, I attach significant weight to the proposal.

### **Conclusion and planning balance.**

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
63. The proposal does not align with the Council's spatial strategy for the area and conflicts with development plan. Even so, I have found that the appeal site is in a relatively accessible countryside location and development here would not harm its character and appearance. Therefore, I afford such conflict with the development plan limited weight. The proposal would also not unacceptably undermine the function of the settlement gap. I have also found no harm in respect of existing trees. In terms of the planning balance, the lack of identified harm in respect of these matters is a neutral factor.
64. Nonetheless, such neutral factors would not diminish the harm arising from the failure of the proposal to safeguard habitats sites and conflict with the development plan. This is also contrary to the aims of the Framework and in my view attracts more than significant weight.
65. On the other hand, the proposal would support five new self-build dwellings with associated benefits to which I attach significant weight.
66. However, having taken account of the other considerations in support of the proposal, I do not consider these to be sufficiently forceful, to outweigh the harm and conflict with the development plan I have identified. Consequently, in the circumstances of this case, the material considerations do not justify a decision other than in accordance with the development plan.
67. For the above reasons, I conclude that the appeal should be dismissed and planning permission refused.

*M Aqbal*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

|                |                              |
|----------------|------------------------------|
| Mark Welch     | Appellant                    |
| Nick Welch     | Appellant                    |
| Andrew Burgess | Andrew Burgess Planning      |
| Andy Mojer     | Tetlow King Planning Limited |

### **FOR THE LOCAL PLANNING AUTHORITY**

|                  |                                   |
|------------------|-----------------------------------|
| Catherine Watson | Senior Planning Officer           |
| Emma Betteridge  | Principal Planning Policy Officer |

### **THIRD PARTIES**

|                        |                                        |
|------------------------|----------------------------------------|
| Councillor David Tozer | Vice Chair of Harestock Parish Council |
| Peter Hitchen          | Local resident                         |