
Appeal Decision

Site visit made on 4 November 2025

by **Guy Davies BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th November 2025

Appeal Ref: APP/Y9507/W/25/3363403

Land off Merryfield Road, Petersfield, Hampshire GU31 4BS

- 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 Kebbell Development Limited against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/24/01858/FUL.
 - The development proposed is the erection of 9 no. dwellings together with access, parking, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted amended plans with the appeal proposing two changes. The first is the removal of a turning head and realignment of the access road. The second is an alternative proposal for the garden spaces associated with plots 2 and 3 (flats for affordable housing). The procedural guide to planning appeals¹ advises that the appeal process should not be used to evolve a scheme and that what is considered by the Inspector should essentially be the same as was considered by the Authority and interested parties at the application stage. Where amendments have been proposed to address shortcomings in a scheme, it is at my discretion, exceptionally, whether to accept them. In doing so, I am guided by the principles set out in the judgement of *Wheatcroft v Secretary of State for the Environment [JPL 1982]*.
3. The plans have not been subject to additional notification. As the proposal to alter the public highway and realign the access could potentially affect neighbouring residents, I consider it would be procedurally unfair of me to take them into account without interested parties having the opportunity to comment. I have therefore decided not to do so. The alternative proposal for the garden space is internal to the scheme and does not materially affect land outside the site. I do not consider any interested party would be prejudiced if I were to consider it as part of the appeal, and therefore I have done so.
4. The appellant has submitted further amended plans with their final comments, consisting of an enlargement of unit 4. It is not appropriate to introduce amended plans at this late stage in an appeal as neither the Council nor interested parties have an opportunity to comment. I have not taken the amendment into consideration.

¹ Procedural Guide: Planning appeals – England, updated June 2025

5. A unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 has been submitted with the appeal covenanting to provide 3 affordable dwellings. However, the Authority is not satisfied with some of the wording, and the undertaking is not signed or dated. I comment further on this document in my reasoning.
6. A revised version of the South Downs Local Plan was published for consultation between January and March 2025, in which the appeal site is identified as a possible housing allocation for 8 dwellings. The draft plan is still at an early stage in the plan making process and has not been published in its final form nor has it been examined. For those reasons, it carries limited weight in this appeal.

Main Issues

7. The main issues are the effect of the development on:
 - The character and appearance of the area
 - The living conditions of future occupants of units 2 and 3
 - The provision of affordable housing
 - Highway safety
 - The health of a beech tree
 - Biodiversity net gain

Reasons

Character and appearance of the area

8. The site lies within the built up area of Petersfield. It is surrounded by the gardens of other properties and slopes gently up to the north. The land is bounded by hedges and trees, with other trees and shrubs within it, including a large beech tree close to the access from Merryfield Road.
9. The site is most closely associated with the suburban development to the south, including Merryfield Road from which it gains access. The area is characterised by detached houses of late post war design. The houses front onto the road with intervening front gardens which are either open or contain low hedges with small trees and shrubs. Most houses have attached garages with hardstanding for parking in front.
10. The proposed layout reflects this suburban character. It would continue the road into the site ending in a turning head. The dwellings would front onto the turning head in the same manner as those in Merryfield Road. They would similarly be set back from the road by front gardens that would allow for a modest amount of planting. The space would be further complemented by an informal open area, providing space for the beech tree. Garaging would largely be provided alongside each dwelling, with hardstanding in front. The buildings would have slightly steeper pitched roofs than those in Merryfield Road but otherwise are of traditional design and would be built from similar materials. I see nothing ambiguous about the definition of public and private space within the scheme, which largely reflects that in the existing locality.

11. The layout includes a wildlife area to the rear of plots 5-7. This is somewhat unusual in that it has no planned function other than as an undeveloped green space. However, subject to it being secure and adequately managed, as would be the case for the open space at the front of the site, it would cause no harm.
12. The land forms part of the South Downs National Park, whose purposes are to conserve and enhance the natural beauty, wildlife and cultural heritage of the Park, and promote opportunities for the understanding and enjoyment of its special qualities. As the site is contained by existing houses, development on it would not have any appreciable impact on the wider landscape and it would not appear overdeveloped. I am satisfied that the proposed development would not conflict with the purposes of the National Park.
13. Similarly, I conclude that the layout and design of the scheme would be satisfactory and would not conflict with Policies SD4 or SD5 of the South Downs Local Plan, which seek to conserve and enhance the landscape and promote good design.

Living conditions of future occupants

14. The appellant and Authority disagree on whether units 2 and 3 meet the nationally described space standards². Each unit has been designed with a gross internal floorspace of 50m², whereas the Authority has measured them as approximately 45.6m² each. The reason for that difference appears to be that the Authority has excluded the internal staircase from each unit when measuring the floorspace.
15. Paragraph 8 of the standard defines the gross internal area of a dwelling as including, amongst other things, flights of stairs and voids above stairs. On that basis, units 2 and 3 do meet the minimum nationally described space standard for a 1 bed, 2 person dwelling on one storey of 50m².
16. Notwithstanding the final comments of the appellant, the Council has not raised any objection to the size of unit 4 (2 bed, 4 person on 2 storeys). I have therefore not considered the size of this unit any further. If in fact unit 4 is below the minimum prescribed space standard, that is a matter that would need to be resolved between the main parties before any resubmission.
17. The two flats have designated private garden spaces that are accessed externally. For the first floor flat it is inevitable that access would have to be external. While it may have been more convenient for the ground floor flat to have a connecting door, I do not consider that the absence of such a connection makes the garden space unusable. Partial shading by neighbouring trees is not unusual in a garden setting, and I do not find that to be a significant shortcoming of the layout of this scheme. As I find the submitted layout with private garden areas for the flats to be acceptable, I do not consider the alternative proposal for communal space put forward with the appeal to be necessary.
18. I conclude that the living conditions of future occupants of units 2 and 3 would be acceptable and that there would be no conflict with Policy SD5 of the South Downs Local Plan, which requires new development to provide sufficient internal space to meet the needs of a range of users.

² Technical housing standards – national described space standard, March 2015

Affordable housing

19. The scheme proposes 3 affordable units in accordance with Local Plan requirements. These are smaller units than the market housing proposed in the scheme but are contained within one building that would be of similar size and appearance to the others. I am satisfied that they would not appear out of place or be readily distinguishable from the other dwellings. The Council raises no objection in principle to the size of the units in terms of them being appropriate to meet affordable housing needs.
20. The unilateral undertaking submitted with the appeal is intended to secure these 3 units as affordable dwellings. However, the Council disputes the wording of the document, which places some uncertainty as to how effective it would be. More importantly it has not been signed or dated and is therefore unenforceable. As it stands, it is uncertain that the development would provide the necessary affordable housing and therefore it conflicts with Policy SD28 of the South Downs Local Plan, which seeks to secure affordable housing to meet the needs of those unable to afford housing on the open market.
21. It is likely that this matter could be resolved by further negotiation between the main parties. However, I have not sought such resolution as given my conclusions on some of the other main issues it is not the only outstanding matter of concern.

Highway safety

22. Amendments were made to the highway access during the application process to address concerns raised by the Highway Authority. However, the Highway Authority has maintained an objection to the scheme over the loss of the existing turning head at the end of Merryfield Road, how land would be reinstated, uncertainty about its replacement within the site to adoptable standards, and the extent of the accompanying footway.
23. While these concerns have been further addressed in the appellant's statement through the submission of amended plans, for the reasons set out in my preliminary comments I am unable to take them into account in this appeal. On the basis of the plans on which the Council made its decision, I share the concerns of the Highway Authority. If the new turning head within the site is to replace the existing turning head at the end of Merryfield Road, then it would need to be designed to adoptable standards, as would the footway. That is not the case with the plans I am considering. It would also require the new turning head to be dedicated as a public highway and for the works to the existing turning head to be agreed. As the existing turning head lies outside the appeal site, that could not be achieved through a planning condition.
24. As it stands the access as proposed on the plans considered by the Council does not achieve the appropriate highway standards, nor has the necessary agreements been reached on highway land ownership. I conclude that the proposal would therefore compromise highway safety and as a result would conflict with Policy SD21 of the South Downs Local Plan, which amongst other things seeks to protect and enhance highway safety.

Beech tree

25. A mature beech tree protected by a tree preservation order stands on the southern boundary of the site to the west of the access. It is prominent in views along Merryfield Road and contributes to the visual quality of the area.
26. Amendments made to the highway access during the application process brought the access slightly closer to the beech tree. However, subsequent to the appeal being lodged both the appellant's arborist and the Council's arborist agree that this amendment would not in principle threaten the health of the tree or constrain its future growth, subject to the provision of compensating open space for the root protection area, soil amelioration, and protection during construction. These matters could be secured by conditions.
27. I am satisfied that subject to suitable conditions, the development would not harm the beech tree. There would therefore be no conflict with Policy SD11 of the South Downs Local Plan, which seeks to conserve and enhance trees, hedgerows and woodland.

Biodiversity net gain

28. The proposed development would give rise to a loss of biodiversity. The appellant proposes to address this loss by purchasing biodiversity credits to ensure that the requisite 10% biodiversity net gain is achieved. Having had regard to the biodiversity net gain assessment submitted with the appeal, the Council now accepts that biodiversity net gain cannot be achieved on site. It also accepts that off-site biodiversity gain is acceptable in principle to address this issue.
29. The mechanism for securing biodiversity net gain is via a condition requiring the submission and approval of a biodiversity gain plan prior to development commencing. Where that involves off-site biodiversity gains it may require a legal undertaking but that would not need to be finalised until the biodiversity gain plan is submitted for approval. The Council queries whether the biodiversity net gain metric is correct for hedgerow units, but that is also a matter for detailed consideration as part of the biodiversity gain plan.
30. Concern has been expressed by interested parties to the loss of the site as a haven for wildlife. However, off-site compensation for the loss of habitat is allowed through the biodiversity net gain system and is an appropriate solution in this case. Other matters, such as the retention of boundary trees and vegetation, and where necessary controlling lighting to enable these boundaries to function as wildlife corridors, can be secured by condition.
31. I conclude that the statutory requirement for biodiversity net gain is capable of being successfully discharged through the use of off-site biodiversity enhancement, subject to a suitable biodiversity gain plan that can be secured by condition. The proposal would not therefore conflict with Policy SD9 of the South Downs Local Plan, which seeks to conserve and enhance biodiversity.

Other Matters

32. Interested parties suggest that there are restrictive covenants on the land preventing development. Such covenants are a private legal matter, and do not have any material influence on my decision which turns on planning considerations applied in the public interest.

33. The Parish Council raises concern at the increase in traffic. The development is relatively modest in size and is unlikely to generate additional vehicle movements to an extent that would have a material impact on traffic congestion in the local area.

Conclusion

34. The principle of residential development on the site is not disputed, and I have found that the layout and design of the proposed scheme would be satisfactory when viewed in relation to its suburban setting. The living conditions of future occupants of units 2 and 3 would also be acceptable. Other issues relating to the beech tree and biodiversity net gain can be overcome by conditions. However, based on the plans which I have considered, the proposal would result in an unsatisfactory road layout with implications for highway safety, and would fail to secure the necessary affordable housing.
35. Considering these issues together, I conclude that the development would conflict with the development plan when taken as a whole. I recognise that there are benefits to the proposal, most importantly the provision of additional dwellings on a sustainably located site which would help meet demand for housing. However, those benefits do not outweigh the harm that would be caused to the development plan. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR