



Appeal Decision

Site visit made on 30 September 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal Ref: APP/L1765/W/25/3361293

Land Adjacent Lodge Green, Whiteley Lane, Titchfield, Hampshire PO15 6RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Patrick O'Sullivan (Whiteley Developments Ltd) against the decision of Winchester City Council.
 - The application Ref is 24/01343/OUT.
 - The development proposed is erection of 2 detached self-build houses with detached garages, parking, turning and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Patrick O'Sullivan (Whiteley Developments Ltd) against Winchester City Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal scheme is for outline planning permission with access and layout to be considered as part of this proposal. I have dealt with the appeal accordingly.
4. The Self-build and Custom Housebuilding Act 2015 (the 2015 Act) provides a legal definition of self-build and custom housebuilding, but does not distinguish between the two. The description of development refers to the term self-build, and I have also used this term in my decision to encompass both types of development for the sake of simplicity.
5. Since the refusal of the application, a revised version of the *National Planning Policy Framework* (the Framework) was published on 12 December 2024. The main parties have had the opportunity to comment on any relevant changes through their appeal submissions. I have had regard to the latest version in reaching my decision.
6. There is an emerging draft local plan (eLP) which is at a well-advanced stage. The examination hearing sessions ended on 6 June 2025, the Inspector's post-hearings action points were issued on 10 September 2025 and public consultation on the proposed main modifications is currently underway with an end date of 16 January 2026. The new plan is expected to be adopted in the first quarter of 2026.

7. The Council has confirmed that the eLP does not propose to change the Whiteley settlement boundary in respect of the appeal site. The Inspector hearings action notes raise no concern in this regard. Moreover, the Council has confirmed that in respect of unresolved objections, the proposed modifications are mainly minor and that the majority of key policies are similar to key existing local plan policies, including the proposed Policy SP3 in relation to development within the countryside.
8. There is no substantive evidence before me that the eLP proposes to significantly alter the objectives of the current adopted development plan policies referred to in the Council's reasons for refusal. I afford weight to the eLP given the advanced stage that it has reached.
9. Since the refusal of the planning application the appellant has provided additional information in respect of the proposed vehicular accesses to serve the development. This information has satisfactorily addressed the concerns previously raised by the Highways Authority regarding access visibility and highway safety.
10. As the Highways Authority is responsible for the safety of users of the local highway network, and based the evidence before me and my observations on site, I am satisfied that the Council's fourth reason for refusal has been satisfactorily addressed and that there is no need for me to consider this matter further.

Main Issues

11. The main issues are:
 - The impact of the proposal on biodiversity, with particular regard to:
 - a) irreplaceable ancient woodland; b) priority habitat; c) protected species; and d) biodiversity net gain;
 - Whether the appeal site is a suitable location for the proposal, having regard to its location within open countryside and the Council's adopted settlement strategy;
 - The effect of the proposal on the character and appearance of the area; and
 - Whether the proposal would provide adequate mitigation for the Solent Special Protection Areas (SPAs).

Reasons

Biodiversity - Ancient Woodland and priority habitat

12. Ancient woodland, by definition, requires hundreds of years to establish and is an irreplaceable ecologically valuable habitat, which is only found in a small percentage of land within the UK. Paragraph 193 c) of the Framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, (such as infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists.

13. In addition to trees, ancient woodlands support unique complex communities of plants and animals, and the Standing Advice from Natural England on this matter¹ (the Standing Advice) is that, to ensure that they are adequately protected from direct and indirect impacts associated with new development, an appropriately landscaped buffer zone of a minimum of 15m should be provided between the new development and the ancient woodland to provide protection to the root zone from direct impacts. The Standing Advice also confirms that where other impacts are likely to extend beyond this distance (i.e into the buffer) the proposal is likely to require a larger buffer zone.
14. Most of the land within the appeal site lies within the ancient woodland designation associated with Lee Ground/Hazel Coppice. This includes land comprising the proposed plot 2, and a part of plot 1 and the area close to the site frontage within which the vehicular accesses would be located. Also, most of the remainder of plot 1 would lie within the recommended 15m buffer zone of the designated ancient woodland area. As such, the appeal scheme fails to comply with the ancient woodland Standing Advice in respect of the required buffer to development.
15. Whilst comprising guidance rather than an adopted development plan policy, there is no compelling evidence before me from the appellant to justify a departure from the Standing Advice, which reflects the view of Natural England as the relevant statutory nature conservation body.
16. Moreover, the consultation response from Natural England confirms that its recommendation of 'no objection' is subject to the securing of appropriate mitigation, which includes maintaining a minimum 15m buffer adjacent to ancient woodland habitat. The response also confirms that due to the proximity of the proposal to the ancient woodland and the scale and nature of the development, Natural England cannot be certain that there would not be a long-term gradual decline in habitat as a result of impacts on woodland flora and fauna, so that the buffer area is likely to be required to be greater than 15m.
17. The appellant refers to the boundary of the ancient woodland designation having changed and raises concerns about the accuracy of the current Magic Map notation of such, having regard to how it relates to the appeal site. My attention is also drawn to the absence of ancient woodland impact concerns in the determination of previous applications for residential development on the appeal site.
18. The appellant's view is that this matter was agreed and resolved with Natural England's involvement in 2013, so that a minimum 15m SSSI Buffer Zone was proposed as part of previous 2013, 2016, and 2019 development schemes.
19. Notwithstanding this and the advice of the appellant's ecological consultants², including the most recent Ecological Impact Assessment by Ecosa dated September 2024, my decision must take into account the current Natural England ancient woodland mapping, as well as the latest consultation response from this statutory nature conservation consultee in respect of the appeal scheme.
20. The evidence before me is that the Natural England ancient woodland mapping was updated in May 2024 and the current Standing Advice was updated in 2022.

¹ *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions.* (Natural England and the Forestry Commission – dated 14 January 2022)

² Ecosa Ecological Survey and Assessment and Ahern Ecology

As such, this information post-dates earlier planning applications and appeals relating to the appeal site.

21. Much of the appeal site comprises open grassland rather than trees. However, this is indicative of the current management of the land and does not lessen the relevance of the Standing Advice which recognises that temporary and permanent open ground can comprise an important part of ancient woodlands and that they do not need to have continuous tree cover over the whole designated area.
22. No trees are proposed to be removed as part of the appeal scheme, having regard to the appellant's submitted Arboricultural Impact Assessment and Method Statement Survey³.
23. However, this does not necessarily preclude potentially harmful impacts arising from both the construction and future occupation of the appeal scheme upon the ancient woodland and the long-established interactions therein between plants, fungi, animals, soils, climate and people.
24. Construction related impacts could result from noise, light, air, and soil pollution which could potentially harm the woodland wildlife, together with ground disturbance and soil compaction within tree root protection areas.
25. The latter is of particular relevance having regard to the Lowland Broadleaved Deciduous Woodland along the western part of the appeal site. This is also designated as a priority habitat, whose conservation, restoration and enhancement is promoted under Paragraph 192 b) of the Framework.
26. The two existing accesses from Whiteley Lane currently comprise low-key and informal access points and would require significant upgrading to make them suitable as vehicular accesses to adequately serve the new dwellings.
27. Even without the removal of any trees from this area, the works to create the accesses would lie within the root protection zones of trees within this area which are protected by a TPO. Moreover, they would reasonably involve physical changes to the ground surface including the installation of new surface treatment, involving associated soil disturbance and compaction and possible impacts upon ground flora and fungi. Similar effects could also arise from the provision of any temporary construction related vehicular access. These impacts could directly harm this ancient woodland and priority habitat.
28. Moreover, there is currently no built development on the appeal site, nor residential or commercial uses therein. As such, the site has a tranquil and rural nature with a very low level of day-to-day activity. The appeal scheme would introduce 2 separate residential units which would significantly intensify the amount of built development on the site, both in terms of new buildings and on-site parking and turning space. Also, the use of the site as two independent dwellings, each with its own separate vehicular access, parking and turning areas, would result in a significant increase in day to day on-site human activity and vehicular and human traffic movements to and from, and within the site.
29. Impacts upon treed and grassed areas of the ancient woodland which would arise from the future residential occupation of the dwellings include noise, air and light

³ Enviro Plant dated 27 June 2023

pollution, physical disturbance from the occupants and any pets, soil compaction, plant trampling, hydrological changes to the site, and future pressure for tree works to avoid risk of damage to people and property. Such effects could harm the existing ancient woodland ecosystem by changing functional habitat connections within and between areas of woodland and disrupting important dispersal and feeding habitat for woodland species. Such impacts would also reduce the resilience of the ancient woodland to future change or development pressure.

30. The aforesaid harm would not be effectively mitigated by the proposed additional landscape and tree planting at the front of the site, nor by the replacement of the existing close-boarded fencing with post and rail fencing to give improved connectivity between the woodland areas for plant and animal species.
31. With all the above in mind, having regard to paragraph 193 c) of the Framework, the appellant has not demonstrated that there are 'wholly exceptional reasons' for the development to take place within the ancient woodland and its buffer zone nor has it been demonstrated that a 'suitable compensation strategy' exists.

Biodiversity – protected species

32. The appellant's updated Ecological Impact Assessment (EIA)⁴ and Habitat Management Plan⁵ (HMP) propose biodiversity avoidance, mitigation, compensation and enhancement measures to address the during and post construction impacts of the proposal on nearby statutory and non-statutory designated sites of nature conservation interest which mainly comprise woodlands and grassland, as well as on notable and protected species.
33. These include the provision of a 15m buffer zone between the development and the Botley Wood and Everett's and Mushes Copses SSSI which abuts the northern boundary of the site, as well as measures to address the impacts upon species identified to be at risk through direct harm, disturbance or habitat loss, including bats, badgers, reptiles, invertebrates, breeding birds and hedgehogs.
34. The EIA includes details of the ecological survey work which was undertaken in order to inform the above measures, including additional survey work undertaken in 2024 in respect of Great Crested Newts (GCNs), which are European Protected Species under the Habitats Regulations.
35. The EIA concludes that the habitat on the appeal site is unsuitable for GCNs due to a lack of suitable breeding ponds in the local area from which they can colonise and limited opportunities on site for GCNs in their terrestrial phase.
36. To support this, the EIA has identified 5 waterbodies within the NE standard 500m search radius of the site. 3 of these were found to be dry at the time of surveys carried out in 2015 and 2018 and unsuitable for breeding GCN. The other two ponds which are located within a golf course and a business park, showed no presence of GCNs when surveyed in 2015. The latter was subsequently resurveyed as part of the most recent 2024 walkover survey and was considered to comprise poor suitability for GCNs.

⁴ Ecological Impact Assessment – Ecosa - Ref 20.0496.0002.F0 - Final Document (revision 1 - 27 September 2024)

⁵ Habitat Management Plan – Ahern Ecology (December 2013)

37. The golf course pond which lies about 160m south of the appeal site, was not resurveyed in 2024. The EIA states that it has an average suitability for GCNs, based upon the 2018 survey and unchanged management practices. Moreover, the appellant's view is that intervening built development and fencing between the site and this pond would result in GCNs having to travel more than 500m from the pond to the site, so that their presence thereon would be unlikely.
38. Notwithstanding the above, the Council has confirmed that the proposal lies within a Red Impact Risk Zone for GCNs where there is a highly suitable habitat and high probability of their presence.
39. *Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System* (Circular 06/05) states that it is essential that the presence or otherwise of protected species and the extent that they may be affected by proposed development should be established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
40. In the absence of evidence of up-to-date surveys of all the identified nearby ponds, which would then inform any necessary GCN mitigation and/or compensation measures, and noting that the identified most suitable habitats for GCNs are the retained woodland, it cannot be concluded that the above requirements have been met. This is notwithstanding the conclusion of a Rapid Risk Assessment undertaken by the appellant that an offence is highly unlikely.

Biodiversity Net Gain

41. Self-build housing is exempt from a 10% biodiversity net gain (BNG) requirement. Notwithstanding this, I find that there would be conflict with the Framework objectives of promoting biodiversity enhancement and requiring that plans should identify and pursue opportunities for securing measurable net gains for biodiversity (paragraph 192 b). This is because, although some biodiversity improvements are proposed, including enhancements regarding invertebrates, reptiles, birds and bats, as well as new tree and hedge planting, the proposal would also result in the direct loss of on-site habitats comprising ancient woodland and priority habitat.
42. Moreover, the appellant has not provided a measurable comparison of pre-development and post-development biodiversity. As such, it has not been demonstrated that there would be measurable net gains.
43. For all the above reasons, I therefore conclude that the proposal would result in material harm to biodiversity with regard to ancient woodland and priority habitat, and that it has not been satisfactorily demonstrated that there would be no material harm to protected species nor that the proposal would result in biodiversity net gain.
44. As such, the proposal would be contrary to Policy DM24 of the *Winchester District Local Plan Part 2 – Development Management and Site Allocations* (April 2017) (the LPP2) in so much as this policy seeks to ensure that new development does not result in the loss or deterioration of ancient woodlands and that

management schemes should be developed, as appropriate, to ensure the long-term protection of these special features and their setting.

45. It would also be contrary to Policy CP16 of the *Winchester District Local Plan Part 1 – Joint Core Strategy* (March 2013) (the LPP1) in so much as it requires new development to show how biodiversity can be retained, protected and enhanced through its design and implementation, and that if there are any unavoidable adverse impacts, ensure that these are appropriately mitigated.
46. This accords with the aforesaid guidance in paragraphs 192 b) and 193 c) of the Framework, as well as paragraph 193 a) which advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Location

47. The Council's settlement strategy is set out in LPP2 Policy DM1 which directs new development to within the settlement boundaries of a defined list of settlements, which include Whiteley. The site lies within open countryside outside the Whiteley settlement boundary and within a designated 'Settlement Gap'.
48. I acknowledge that the Council has raised no objection in respect of LPP1 Policy CP18 which seeks to retain the generally open and undeveloped nature of the designated settlement gaps. I have had regard to previous appeals relating to the residential redevelopment of the appeal site (the 2017⁶ and 2021⁷ appeal decisions) since the adoption of this policy, as well as to the Council's more recent *Settlement Gap Review* (July 2024). Accordingly, I am satisfied that the appeal site does not play a role in the functioning of this large settlement gap, so that the appeal scheme would not conflict with the aforesaid objectives of Policy CP18.
49. Notwithstanding the above, LPP1 Policy MTRA4 still applies, as it provides guidance for development within countryside locations. This policy restricts development within the countryside to that which has an operational need for a countryside location; proposals for the reuse of existing rural buildings for employment, tourist accommodation, community use or affordable housing (to meet demonstrable local housing needs); expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need; and small-scale sites for low key tourist accommodation.
50. The proposal is for 2 new-build self-build houses. The Framework definition of self-build and custom-build housing is that it is built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. It confirms that such housing can be either market or affordable housing. There is no substantive evidence before me that the proposal would be secured as affordable housing.
51. Accordingly, the appeal scheme for 2 new-build market homes would not fall within any of the aforesaid Policy MTRA4 categories. I therefore conclude that, in locational terms, the site is not a suitable location for the proposal having regard to the Council's adopted settlement strategy. Notwithstanding the proximity of the

⁶ APP/L1765/W/16/3153276

⁷ APP/L1765/W/19/3243574

site to the settlement boundary, the appeal scheme would conflict with LPP1 Policy MTRA4, the aims of which I have outlined above. Although this policy was adopted prior to the current version of the Framework, it is consistent with the sustainable development and housing aims of the Framework.

52. I do not find the development plan to be out of date due to the non-inclusion of a specific policy in respect of self-build housing, which, as open market housing, falls to be considered under the development plan strategy for the location of new residential development. Moreover, I note that this approach has been endorsed by a previous appeal Inspector⁸ who found that LPP1 Policy CP2, which requires residential development to meet a range of community needs and deliver a wide choice of homes, allows for self-build housing developments.
53. There is a difference of opinion between the main parties as to whether the Council can demonstrate a five-year supply of deliverable housing. The Council considers that it can provide a 5.31-year supply, taking account of previous over-provision and the soon-to-be adopted eLP under the Framework transitional arrangements. The appellant disputes this, citing a recent appeal decision in which the Inspector concluded that there was insufficient evidence as part of that particular appeal to demonstrate a 5-year supply of housing land with appropriate 5% buffer.⁹
54. Notwithstanding the above, even noting that the eLP is at a more advanced stage than at the time of that appeal decision, there is no requirement for me to come to a view on this matter.
55. This is because, having regard to my conclusion in respect of the first main issue, material harm to an irreplaceable habitat comprising ancient woodland provides a strong reason for refusing the appeal proposal. Therefore, even if the development plan is out of date, the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework is not engaged for decision making purposes having regard to footnote 7.
56. The appellant asserts that the settlement boundary should be redefined to include the appeal site and other built residential development to the east of Whiteley Lane and its appeal submissions include details of its previous representations on this matter through the public engagement processes associated with the adopted LPP2 and the draft eLP. Whilst I have noted the appellant's frustration that the eLP does not intend to alter the Whiteley settlement boundary, the emerging eLP process is not a matter for me to judge under the remit of this S78 appeal.

Character and appearance

57. The appeal site lies on the east side of Whiteley Lane, a narrow, private no-through road access lane which is also a public footpath. The site is largely given over to grassland, which is surrounded by trees and shrubs along its northern, eastern and western boundaries. These include trees along the rear of the site, Hazel Coppice to the north, which forms part of the wider Botley Wood and Everett's and Mushes Copses SSSI, and woodland trees along the front of the site. The latter extend approximately 25m into the site on rising ground, so that the main part of the site is

⁸ APP/L1765/W/22/3306546

⁹ APP/L1765/W/24/3350662

higher than the lane.

58. The appeal site is surrounded by residential built development comprising detached dwellings on three sides. This includes spacious and low-density development comprising large, detached dwellings set within generous, maturely landscaped plots to the east and south. These form part of the Skylark Meadows development which dates to the late 1990s, together with Lodge Green, a detached part single, part 2-storey dwelling to the south which pre-dates that development and lies close to the southern boundary of the appeal site, separated from it by close-boarded fencing.
59. To the west on the opposite side of Whiteley Lane, the built development is denser, comprising mainly 2-storey houses of a mix of designs and ages. These present a built residential frontage onto the highway.
60. Notwithstanding the above, the appeal site has maintained a distinctly rural character which clearly distinguishes it from the nearby residential development. This is largely due to its woodland association. The whole site is covered by a group TPO and much of the site, in particular the northern and western parts, lies within ancient woodland.
61. I saw during my visit that there is a small caravan on the site, gravelled access from Whiteley Lane and a close boarded fence and a gate positioned parallel to the site frontage and set back from it. However, these structures do not undermine the predominantly rural nature of the site. There are no buildings or hard standings and no domestic use, and the site has a quiet and undeveloped character.
62. The site lies within the Whiteley Woodlands Character Area in accordance with the *Winchester Landscape Character Appraisal (2022)* (the LCA). This is identified as containing a significant amount of woodland, much of it being ancient woodland and much of it being based around Botley Wood and Everetts Mushes Copses, which is the largest SSSI in the district. This is contiguous with the appeal site, and notwithstanding the previous removal of trees from the site, it remains closely associated with the SSSI woodland due to its tranquil undeveloped nature and the treed nature of its frontage, northern and eastern boundaries.
63. Moreover, within this wider landscape character area, the LCA landscape type within which the appeal site lies, is described as Mixed Farmland and Woodland Enclosed (MFWE). This is described as having small or medium sized fields, with ancient semi-natural woodlands, hedgerows and hedge banks and hedgerow trees providing a strong sense of enclosure.
64. The MFWE landscape is identified as having a generally small-scale and enclosed character containing great variety and contrast. The numerous woodlands and hedgerows are acknowledged as limiting views, resulting in the area having a secluded character. Much of this area is noted as being remote from busy through-routes and being valued for its tranquillity.
65. The appeal site is typical of the MFWE landscape type. Whilst not comprising actively farmed land at present, a large open area of grass remains, and the site is devoid of any built development or residential or commercial use. It is positioned within the private, rural, no-through Whiteley Lane and has retained a quiet, rural character which continues to have a close association with the adjacent woodland

and trees which define its frontage and provide a maturely treed backdrop and northern side boundary.

66. The appellant's *Landscape and Visual Impact Appraisal*¹⁰ (the LVIA) refers to changes to the locality of the appeal site that have taken place since the District and County Council's Landscape Character Assessments, including the aforesaid neighbouring housing, major employment development north of the site and east of Whiteley Lane, the felling of trees on the appeal site and the erection of the existing 2m high close-boarded fence.
67. However, the two LCAs by the District and County Councils referred to in the appellant's LVIA (dated 2004 and 2012 respectively), have been superseded by the 2022 LCA. It is the latter which I have taken account of in my decision, as it represents the most recent LCA and was produced after the aforesaid changes in circumstances to the site and its surroundings.
68. Having regard to all the above, I find that the surrounding built development, notwithstanding that many properties have been significantly extended since originally built, does not result in the appeal site and its immediate environs having a settlement character nor the appeal site being suburban in nature.
69. This view is consistent with that of the 2021 appeal inspector, in considering a scheme for 2 detached dwellings on the appeal site under the same current development plan policies.
70. The wider countryside is not visible from Whiteley Lane due to the ridgeline and adjacent vegetation and built development. However, this is consistent with the aforesaid MFWE landscape character. Accordingly, there is no reason for me to come to a different view from that of the 2021 Inspector who found that the appeal site need not comprise countryside in its traditional sense or have views of the wider countryside to have an attractive rural character.
71. The 2017 and 2021 appeal decisions both found harm to the character and appearance of the area and are material considerations in the determination of this appeal. I find that there are no significant changes in the circumstances relating to the appeal site and its surroundings since those decisions that would warrant changing this view. In this respect I have had regard to the 2022 LCA and surrounding built development that was in place at the time of these decisions. I have also noted that tree removal had already taken place on the appeal site and the caravan and close-boarded fencing parallel to the lane which restricts public views across the site were present, at the time of the 2021 decision.
72. The LCA identifies increased built development as a future pressure which could significantly alter the rural character of this part of the MFWE and further erode neighbouring tranquillity. I concur with the 2021 decision in so much as it acknowledges that although there have been incremental changes to the character of the wider area because of nearby built development, this serves to heighten the value of the undeveloped rural land which is left.
73. The appeal scheme would site two detached dwellings on the site in a set-back similar position to those the subject of the 2021 appeal decision and, similarly, each

¹⁰ Landscape and Visual Impact Appraisal of Proposed 2 New Dwellings at Lodge Green, Whiteley – Sue Sutherland Landscape Architects (September 2023)

having its own separate vehicular access serving parking, turning and garaging in front of each dwelling.

74. Notwithstanding the proposed buffer zone along the northern edge of the site, the dwellings and associated accesses, garaging and parking, together with additional domestic paraphernalia associated with residential occupation, such as outbuildings, patios, decking and other garden structures, would visibly extend residential development along this side of Whiteley Lane towards Hazel Coppice, thereby suburbanising the site to the detriment of its intrinsic rural character.
75. Moreover, whilst the detailed design, height and scale of the new buildings are not for determination under this outline appeal scheme, the appellant's LVIA states that the dwellings would be 2-storey and would reflect the scale, form and massing of the nearby housing in Whiteley Lane and Skylark Meadows. Many of these are substantial properties which have been significantly extended since originally built. As such, it is reasonable to assume that the appeal scheme would comprise two substantially large dwellings, in keeping with the sizes of those nearby.
76. Notwithstanding this, due to the rising ground levels away from the lane, which the appellant has confirmed are not proposed to be altered, it is reasonably likely that, regardless of the height and massing of the proposed dwellings, given the proposed layout of the scheme, even if substantially smaller than other dwellings in the vicinity, the new buildings would still be visible from Whiteley Lane. Notwithstanding their set back position from the frontage, they would be visibly taller than the fencing, which, having regard to gaps between frontage trees and the high nature of some tree canopies is visible in public views from Whiteley Lane.
77. New native and semi-ornamental tree and shrub planting are proposed between Whiteley Lane and the new dwellings to provide additional landscaping screening of the proposal. The appellant states that these proposals are more substantial than those proposed at the time of the 2021 appeal decision which the Inspector considered would not provide adequate mitigation. However, the appellant also acknowledges that the submitted landscape scheme is not intended to totally screen the houses, but to provide glimpsed views only through a mix of native and semi native deciduous and evergreen shrubs and new tree planting.
78. I do not doubt that the introduction of additional landscaping in the manner proposed would lead to a greater screening of the elevated part of the appeal site from Whiteley Lane than is currently the case. However, this would not adequately mitigate for the harm to the rural character of the appeal site arising from the erosion of undeveloped rural land which currently provides a clear visual buffer between Lodge Green and Hazel Coppice.
79. Although there are two existing accesses off Whiteley Lane, they are informal, unsurfaced and unsuitable for use in connection with the permanent residential occupation of two new dwellings. As such, they do not significantly diminish the site's rural character. Physical works to make them suitable for safe and regular use by future occupiers, as well as their subsequent daily use in connection with residential occupation would result in urbanising impacts.
80. Further erosion of the rural environment would arise from traffic, noise and lighting impacts associated with the domestic activity involved in the occupation of the dwellings. I am not persuaded based on the evidence before me, that the retention

of trees and the proposed landscaping along the site frontage would be sufficient to mitigate these harmful impacts.

81. Furthermore, I cannot be certain that the proposed landscaping would be implemented and that it would remain in perpetuity. As such, this is not a reason to allow development that is unacceptable.
82. For the above reasons I therefore conclude that the proposal would materially harm the character and appearance of the area. As such, it would be contrary to LPP1 Policy CP20 and LPP2 Policies DM15, DM16 and DM23, in so much as these policies seek to ensure that new development respects the qualities, features and characteristics that contribute to the distinctiveness of the local area, within and surrounding the site, including rural character outside defined settlement boundaries, and taking into account, amongst other things, visual, physical and tranquillity impacts.

SPA

83. The Council's third reason for refusal relates to the failure of the appeal scheme to mitigate the 'in combination' effects of new residential development upon the Solent SPAs. Although the reason for refusal is limited to that of recreational impacts, these effects are two-fold. Firstly, having regard to the impacts of increased recreational activity from new housing developments resulting in disturbance to overwintering wildfowl and wading birds, and secondly, increased levels of nutrients from wastewater from new dwellings having a detrimental impact upon the water quality of the Solent SPAs.
84. Since submitting the appeal, the appellant has paid a financial contribution to mitigate harm in accordance with the Council's adopted *Solent Recreation Mitigation Partnership Strategy* (the SRMPS). The Council has confirmed that the payment is in excess of that required by the SRMPS, and that it does not address the reason for refusal as it is not secure by means of an accompanying legal agreement.
85. Both parties are content that the nutrient issue can be dealt with by means of a Grampian condition, and, since the lodging of the appeal, the appellant has submitted a signed and dated *Deed of Allocation of Nitrate Offsetting Scheme* under S106, as a mitigation measure to address this matter.
86. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the SPAs falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine the above matters further, including seeking further information from both main parties and, potentially, consulting Natural England, and undertaking an Appropriate Assessment (AA) of the implications of the appeal scheme for the EPS.
87. However, as there are other clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. Therefore, I do not need to consider these matters any further as part of my decision.

Other Matters and planning balance

88. The Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be close to a designated settlement boundary where there is good access to facilities and services and public transport connections.
89. It would also contribute towards the Council's housing supply, provide self-build accommodation for which there is a recognised need, noting that the Council has confirmed an identified shortfall in provision against the recorded demand on its self-build register. Also, the scheme could be built out relatively quickly having regard to paragraph 73 of the Framework. There would also be economic benefits because of the construction of the development and economic and social benefits associated with the subsequent occupation of the dwellings.
90. However, all the aforesaid benefits would be modest having regard to the small scale of the development. Also, the weight I attach to the provision of self-build housing is reduced due to the absence of any legal mechanism to secure the scheme as such. Moreover, the contribution of the appeal scheme to the Council's supply of housing would also be limited, so that even if a shortfall of housing were identified taking the appellant's view as a worse-case scenario, given the modest size of the proposal, I give these benefits moderate weight in my decision.
91. The appellant cites a recently allowed appeal¹¹ where the Inspector gave substantial weight to the self-build nature of the development. I acknowledge that the government's support for self-build and custom build housing is clear and that the 2015 Act requires planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. Moreover, the Housing and Planning Act of 2016 provides that planning authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand identified.
92. However, I find that the circumstances of that appeal are not directly comparable to those of the current appeal. It relates to a different council area and involves other different matters in dispute, as well as proposing a significantly greater number of self-build dwellings to be secured as such through a completed legal agreement.
93. As such, whilst the Council's latest self-build housing position statement¹² confirms that there remains a shortfall in self-build housing supply in comparison to the registered need, this does not alter the modest weight that I attach to the stated self-build nature of the current scheme in the overall planning balance in respect of the current appeal given the small number of units proposed and the absence of a guarantee that the proposal would be secured as self-build housing.
94. The appellant refers to engagement that has been carried out with local residents and changing levels of support for the scheme over the years. However, much of this is historical relating to the period prior to the application which was the subject of the 2021 appeal decision. Moreover, there is no substantive evidence before me

¹¹ APP/Y3940/W/23/3317252

¹² Winchester City Council Self and Custom Build Housing Position Statement January 2025

that the current proposal is a community-led scheme, or that it has significant support from the local community. In this respect I note that more letters of objection, including from the Town Council, than support have been received in respect of the current scheme. As such, I am not persuaded that significant community support is a material consideration that weighs in favour of the proposal. Moreover, in any event I must determine the appeal having regard to the merits of the scheme before me.

95. It is common ground between the main parties that the appeal scheme results in no harm in respect of matters including neighbouring living conditions, flood risk and drainage, highway safety and parking, heritage assets and sustainable design. The absence of harms is a neutral factor which does not weigh in favour or against the development.

Conclusion

96. The proposed development would conflict with the development plan taken as a whole, and while the matters that I refer to above would weigh in favour of the proposal, they are not sufficient to indicate that a decision should be made other than in accordance with the development plan.
97. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR