



Appeal Decision

Site visit made on 27 January 2026

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2026

Appeal Ref: APP/L1765/W/25/3371345

Pitt Manor, Romsey Road, Winchester, Hampshire SO22 5PR

- 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 Stuart Garnett of Shorewood Homes Ltd against the decision of Winchester City Council.
- The application Ref is 24/02377/FUL.
- The development proposed is demolition of all buildings, and the construction of 48 dwellings, formation of a new access onto Kilham Lane, provision of landscaping, public open space and drainage (phased development).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following determination of the application subject of this appeal, the Council's planning committee, in June 2025, resolved to grant planning permission for the construction of 48 dwellings, formation of new access onto Kilham Lane, provision of landscaping, open space and drainage. The development includes the provision of five shared ownership units on site and a financial contribution towards affordable housing of £171,000. This represents a material consideration and fallback position that I have taken into account in coming to my decision.
3. Following determination of the planning application the appellant has submitted a Unilateral Undertaking (UU) under s106 of the Town and Country Planning Act 1990 (the Act) which includes planning obligations to secure a financial contribution towards affordable housing, highway improvements and open space which goes some way to addressing the Council's fourth reason for refusal.

Main Issues

4. The main issues are:
 - Whether affordable housing on-site is required to make the scheme acceptable in planning terms;
 - Biodiversity Net Gain; and
 - The effect of the proposed development upon the integrity of the Solent Special Protection Areas (SPAs).

Reasons

Affordable housing

5. Policy CP3 of the Winchester District Local Plan Part 1 – Joint Core Strategy (2013) (LP) relates to affordable housing. It states that all developments which increase the supply of housing will be expected to provide 40% of the gross number of dwellings as affordable, unless this would render the proposal economically unviable. The policy goes on to advise that affordable housing should be provided on-site unless off-site provision would better meet priority housing needs and support the creation of inclusive and mixed communities.
6. The appellant's most up-to-date Financial Viability Appraisal (FVA) concludes that the proposed development is unable to support 40% affordable housing on site as this would render the scheme unviable. This is a position that both main parties are in agreement upon and there is nothing substantive before me that would lead me to conclude other than the delivery of affordable housing on-site would render the development economically unviable.
7. In such circumstances, the policy allows for the provision of affordable housing off-site where this would better meet priority housing needs and support the creation of inclusive and mixed communities.
8. In this regard the evidence before me indicates that the development could support a financial sum of between £2.1m and £3m to provide affordable homes off-site within the administrative area of Winchester City Council. The Council and the appellant both indicate that a final figure of £2.1m has been agreed upon and this is secured within the completed UU. Officers from the Council's New Homes team also indicate that this figure is acceptable to them.
9. The Council has drawn my attention to the Hampshire Home Choice Housing Register which indicates that there are currently 173 applicants for affordable housing in the Stanmore/St Lukes ward. Across Winchester City there are some 1610 people on the register.
10. It is evident that discussions between the Council and the appellant for the delivery of affordable housing off-site has been on going and numerous options have been tabled. However, it appears that these options have not met the New Homes team's housing criteria and that the preference is for a financial contribution.
11. The appellant's evidence indicates that the agreed upon figure of £2.1m would enable the delivery of 19 affordable units equating to 40% of the houses being delivered on the site. I have not been provided with any information to refute this claim and therefore I am satisfied that the financial sum offered by the appellant would likely deliver this number of houses in the area.
12. Furthermore, the appellant highlights that the Council's New Homes team have a track record of delivering affordable housing either by purchasing homes or through delivering their own projects. This gives me confidence that the monies would deliver units on the ground.
13. Whilst affordable units would not be built on site, I have no reason to believe that such houses could not be delivered locally within the Stanmore/St Lukes ward.

14. Drawing these matters together, in my judgement, a sum of £2.1m leading to the delivery of some 19 affordable homes would better meet the priority needs of the area supporting the creation of inclusive and mixed communities and making a notable contribution towards the delivery of affordable homes in Winchester.
15. The Council has made reference to Policy H6 in the emerging local plan. Paragraphs 49 and 50 of the National Planning Policy Framework (the Framework) set out how applications for planning permission should be determined in respect of emerging plans. Whilst one could say that the emerging local plan has reached an advanced stage as examination has taken place and a post-hearing note has been issued, I have not been provided with any substantive evidence that it is sound. As such, it could be subject to modification and further consultation. There is also no indication about the timetable regarding adoption. Accordingly, the emerging plan attracts only very limited weight in the decision-making process.
16. To conclude, I find that the proposed development accords with LP Policy CP3.

Biodiversity Net Gain

17. Biodiversity Net Gain is required under a statutory framework introduced by Schedule 7A of the Act. Under this framework every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met, subject to some exemptions. This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the on-site habitat. This increase can be achieved through on-site biodiversity gains, registered off-site biodiversity gains or statutory biodiversity credits.
18. The biodiversity gain condition is a pre-commencement condition and once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the local planning authority before commencement of the development.
19. The Planning Practice Guidance (PPG) indicates it would generally be inappropriate to refuse an application on grounds that the biodiversity gain objective will not be met. However, the PPG also states that decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged.
20. The appellant has produced a Biodiversity Net Gain Assessment which states that existing habitats on-site present a baseline value of 19.25 habitat units and 1.49 hedgerow units. Whilst the proposed development includes the creation and enhancement of on-site habitats and a gain in hedgerow units the proposed development would result in a 23% net loss of habitat units.
21. In the absence of mitigation, the proposed development would be deficit of 6.40 habitat units. Consequently, in order to achieve a 10% net gain in biodiversity solutions would need to be secured either in the form of an alternative off-site location or units would need to be purchased from a habitat bank.
22. The appellant advises that they have engaged with local mitigation providers to secure quotes, however, there is nothing before me to indicate that an agreement with a registered provider has been agreed or whether purchasing such credits is a viable option. Nor is there anything to suggest that sufficient capacity exists at

these locations to achieve the required net gain in biodiversity. Furthermore, there is no mechanism, in the form of a legal agreement, by which to secure the off-site gains or units.

23. Notwithstanding the condition suggested by the Council, I cannot be confident that the proposed development would secure a net gain in biodiversity so that the biodiversity gain condition would be successfully discharged. The proposal therefore conflicts with LP Policy CP16 which, amongst other things, requires development to retain, protect and enhance biodiversity across the district.

Solent SPAs

24. The site lies within the River Itchen catchment area which forms part of the Solent SPAs, and which is recognised by the Conservation of Habitats and Species Regulations 2017 (the Regulations) as areas of international importance for its flora and fauna.
25. Without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the SPAs, from increased nitrogen and phosphorus 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 in relation to the likely effect of the development upon the integrity of the SPAs.
26. New residential developments are expected to achieve nutrient neutrality. The appellant's Nutrient Neutrality Technical Note indicates that the proposed development would increase both nitrates and phosphate entering the SPAs.
27. Whilst the proposed on-site open space would mitigate the effect to a degree the technical note indicates that nitrogen and phosphate credits will have to be purchased from the Grange Estate Abbotstone which lies within the catchment of the Morestead wastewater treatment works.
28. Whilst the additional loads to mitigate have been identified there is no specific information in respect of the actual amount of credits that would be required to secure adequate mitigation for the proposed development. Nor is there anything before me to demonstrate that purchasing credits is feasible to mitigate the impact of additional dwellings in the area. Accordingly, based on the available information I am not satisfied that a suitable mitigation scheme exists.
29. Given my statutory responsibilities under the Regulations and taking a precautionary approach, I find that in the absence of a mitigation scheme, secured by way of a legal agreement, it has not been demonstrated that the proposed development would achieve nutrient neutrality. Thus, a likely significant adverse effect on the integrity of the Solent SPAs cannot be ruled out.
30. In my judgement the wording of the 'Grampian' condition suggested by the Council would not meet the test of precision, set out in the Framework, nor would its imposition be appropriate given the ambiguity that currently exists.
31. As such, the proposed development conflicts with LP Policies CP15 and CP16 which, amongst other things, seek to protect international conservation sites and appropriately mitigate adverse impacts upon them.

Other Matters

32. I note the representations made by local residents to the appeal raising additional matters. However, given my findings in respect of the appeal there is no need for me to address these points in detail.

Planning Balance

33. There is dispute between the parties as to whether or not the Council can demonstrate a deliverable five-year supply of housing sites. From the evidence before me, namely the 5-Year Land Supply Position Statement, dated September 2025, and without any substantive evidence to refute the Council's position there is an indication that a deliverable supply of housing sites exists in the area.
34. I have found that the proposed development would conflict with the development plan in respect of the likely significant impact upon habitats sites and in respect of biodiversity and which is sufficient to dismiss the appeal.
35. Even if I was to find that the Council was unable to demonstrate a five-year supply of housing sites paragraph 11(d i. of the Framework states that permission should not be granted when the application of policies in the Framework that protect areas or assets of particular importance, as set out in Footnote 7, provides a strong reason for refusing the development proposed.
36. In this regard I have found that a likely significant effect upon the Solent SPAs cannot be ruled out. In my judgement the harm to the habitats sites provides a strong reason for refusing the appeal scheme before me. Therefore, paragraph 11 d) and the presumption in favour of sustainable development is not engaged.

Conclusion

37. Whilst the tilted balance does not apply for the reasons set out above, even if it did, the harm of granting planning permission in respect of the likely significant impact upon habitats sites and in respect of biodiversity would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
38. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR