

**Response on behalf of the Appellant  
To Eastleigh Borough Council's Appeal Statement**

Planning Inspectorate ref:  
APP/W1715/W/23/3332895

Eastleigh Borough Council ref:  
F/22/93835

**On behalf of:**

The Appellant  
Country Homes Ltd

**In respect of:**

Moorlands Farm  
Botley Road  
West End  
SO30 3HD

**Date:** 27<sup>th</sup> March 2024

**Reference:** 12084-Appeal-R002

## **1.0 Introduction**

- 1.1 This Statement responds to the Local Planning Authority's Statement of Case, dated March 2024.
- 1.2 We respond to the Council's Statement in the order of the matters they raise in their Sections 7 and 8.

## **2.0 Appeal Case – Reason 1 – Urbanising Impact on the Countryside**

- 2.1 In respect of the Council's reference to Policy S5, paragraph 1(b) is relevant to the appeal scheme. It stands on its own without the need for reference to part 1(a), which deals with agricultural development. Part 1(b) relates to the acceptability of replacement non-residential development in the countryside and triggers the consideration of Policy DM18.
- 2.2 ***Policy DM18(c). the extension or replacement building would not have an urbanising effect on the countryside in terms of its density, scale, massing, layout and height;***

We agree with the Council that Policy DM18(c) is the pertinent matter in this case, as it deals with the potential urbanising effect on the countryside as a result of the scale, massing and height of a proposed development. As the Council notes, we acknowledge that the proposed development does extend marginally into existing open land and is larger in footprint and height than the existing combination of buildings. This is evidenced by the proposed plans and the Design and Access Statement.

- 2.3 The proposals however were arrived at through a number of positive, iterative design reviews that were carried out in consultation with the Council's own specialist advisors and external statutory consultees, supported by the raft of linked environmental-based assessments. The appeal scheme is a result of that positive, collaborative process where the common objective was to agree a solution for this long-established brownfield site, the developed status of

which long predates its existing context that includes the M27, Wellington Industrial Park and new development on the edges of West End. This approach has been fully consistent with paragraph 38 of the NPPF which requires LPAs to approach decisions on proposed development in a positive and creative way and to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. We return to these wider material considerations below.

- 2.4 The appeal scheme has also been guided by the environmental and wider design led assessments that have been undertaken by independent consultants, against the background of the designations of the site and local and national planning policy guidance. In accordance with planning law and paragraph 47 of the NPPF, planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach has been positively applied by the Council in respect of other proposals for the appeal site in the past; namely through their approach to the dog training centre which if implemented would have extended new built footprint well outside of the built footprint of the existing farmstead and also much closer to the SSSI boundary (Our Appendix 24, Annex 1).
- 2.5 We also agree with the Council that the existing derelict buildings on the site are not visually intrusive from medium and longer-range views due to the established screening of the site. From the small number of short-range, glimpsed views that are available of the site, the site is clearly very degraded. To fully appreciate this, however, the site must be viewed from within the main body of the site; something that as outlined in our main Statement, the Council's Committee Members did not do and which at least one commented on during their discussion. The Inspector will note this if the recording of the Committee Meeting is watched (Council's Statement paragraph 7.3). As highlighted in our evidence, the condition of the site was inherited but has unfortunately attracted a raft of anti-social behaviour that the appellant has, at cost, tried to contain and stop whilst planning discussions have gone on.
- 2.6 We also acknowledge that proposed Units A, B and C will be taller than the existing smaller buildings within the site. However, again as a result of the established screening around and within the site, they will **not** be visible from

long and medium range views. **Nor** will they be visible from the majority of short-range views. Where the buildings will be visible from the limited number of positions available, their impact as a new visible presence within the site and designated countryside, will be **limited** in physical terms and **positive** in terms of the resulting significant enhancement of the site and of its contribution to its setting.

- 2.7 This positive assessment of the proposals has been agreed by the Council's specialist design, landscape and policy advisors and informed the Council's officers' recommendation that the proposals should be approved by their own Committee.
- 2.8 In line with the officers' recommendation, the proposal, in visual and urban form terms, will again be positive and beneficial. We contend that the scheme takes significant, appropriate and high quality design references from traditional and more modern farmsteads and that it would provide an exemplar for modern light industrial schemes in edge of urban and countryside settings.
- 2.9 The Council has referred to a new application that has been submitted for the appeal site, which is with them for determination. The Council has correctly **not** listed that application under the *Relevant Planning History* section of their Statement. The application scheme differs from the appeal scheme in a number of respects and the fact that it has been submitted is irrelevant to this appeal and must be set aside. The Council's initial advice to us was to delay its submission. The relevant consideration for the appeal scheme is whether it is acceptable on its merits, taking into consideration the supportive responses and recommendations of the Council's advisors that it should be approved. That is in light of not only its design benefits but also how it will help to meet wider local and national objectives in respect of BREEAM, BNG and employment provision.
- 2.10 ***Policy DM18(d). access, car parking, landscaping and services can be provided without having a detrimental impact on the character of the countryside;***

The access works will not have a harmful impact on the character of the site or its setting. The proposals will include minor works to the existing service road and the provision of new service and linked hard landscaping. The proposals however also include the introduction of a new SUDS pond with linked ecological benefits and new soft landscaping within the courtyard and adjacent to and across a number of the new buildings, that will all contribute to the BNG enhancement of the site. This is clearly evidenced by the Landscape Mitigation and Enhancement Plan (Our Appendix 73). As also stressed through our appeal documents, the proposals again include electric charging points for all motorised vehicles to support and futureproof the development for electric only vehicles. The Transport Statement for the appeal scheme also assessed that whilst it will attract additional vehicle movements compared with the existing situation, this will be limited and contained within the still compact courtyard, supported by the contained circulation routing through the site. The service areas will again be laid out with newly introduced soft planting beds and permeable surfaces that will contrast with the stark, degraded hard surfaces of the existing courtyard arrangement. The site will also be safely and conveniently accessible by bus, bicycle and on-foot.

**2.11 *Policy DM18(f)... the extended building or its replacement would be located within the existing curtilage unless its relocation or extension would contribute to improving the character and quality of the local area;***

It is acknowledged that the appeal scheme extends beyond the existing built footprint of the farmstead but the policy sets out that this will be acceptable where the character and quality of the local area will be improved. In this context, the local area is taken to be the contained, largely screened site that will be significantly enhanced and that will provide significant visual enhancements from the limited glimpsed views towards it, as well as within the site itself. This is set alongside the wider economic benefits of the scheme and the visual, environmental and ecological benefits that will place the new scheme positively within its immediate and wider setting, as objectively measured by the Planning and Economic statement, BREEAM, BNG assessment and LVIA.

**2.12 The proposed landscaping scheme builds on the existing screening around the**

site and will replace some existing planting that is in poor condition. Significant elements of the landscaping proposals however are not led by a need to further screen the site, although they will have that effect. That screening is largely achieved by the existing planting and by the position of the site, set lower than Botley Road, adjacent to the M27 with its own recently enhanced screen planting. The landscaping proposals do in fact form part of a comprehensive enhancement of the overall quality of the site and the desire and need to meet BREEAM, BNG and linked SUDS drainage responses that combine with the high-quality aesthetic of the proposed buildings. Taken as a whole, the result will again be a significant enhancement of the visual quality and overall character of this long-developed site. The quality and benefits of the scheme will protect and enhance the countryside aspects of its setting beyond what is generally expected of light industrial schemes. The assessments and appraisals that have guided the proposals confirm the changes will be positive and this has again been supported by the Council's specialist advisors and statutory consultees.

2.13 ***Other Material Considerations.*** We contend that the urbanising effect of the appeal scheme would be minimum and not harmful. It would be acceptable in the context of the very limited views that are available towards the site, the very positive enhancements that will be visible when viewed from the limited vantage points that are available, and the measurable environmental enhancements that will be provided within the site that will link with the adjoining SSSI and that will in turn assist in the protection and enhancement of the SSSI. In addition are the economic benefits that will support the Council employment-based policies and objectives, with the scheme being positively endorsed by the Council's Policy and Economic Officers. All of these linked considerations have been supported by the Council's other specialist advisors and supported the recommendation to the Council's Committee that the scheme should be approved.

2.14 The Council has not provided any evidence or sound justification to support Reason 1 for their Committee's refusal of the scheme and we ask that it is put aside.

### **3.0 Appeal Case – Reason 2 – Impact on the Adjoining SSSI**

- 3.1 We welcome the Council's decision not to pursue this reason for refusal in light of the Condition Report that has been undertaken by Natural England of the adjoining SSSI (Our Appendix 106). The matters set out below have already been summarised in our appeal documents but we consider it important to reiterate how matters relating to the SSSI have been openly and proactively approached with EBC and Natural England.
- 3.2 The appellant's were in discussion with the Council about the SSSI throughout the planning application consultation and as part of the iterative review of the site plans. They were also in discussion for some time with the Council's Countryside Services Team about EBC's potential purchase of the SSSI. As a result, the Council's different sections were engaged with on a number of different matters, as they were relevant to those individual discussions.
- 3.3 The Council's Planning and Countryside Services Departments were also informed on numerous occasions that the appellant's were in discussion with Natural England as part of their obligations as the new landowners of the SSSI.
- 3.4 In respect of the planning application specifically, the appeal scheme was fully assessed in relation to its potential impact on the SSSI, as it is designated by Natural England and as it was also fully appraised by Eastleigh Council; - led by their specialist advisors and by their external statutory consultees.
- 3.5 As set out in the appeal documents, our Statement of Case and the Statement of Case of the Council, a number of design responses have been agreed to ensure that the SSSI will not be harmed. This includes the setting back of the new buildings outside of an agreed minimum 15m to 20m buffer from the boundary of the SSSI.
- 3.6 Natural England undertook the Condition Survey of the SSSI as part of its oversight role and shared it with the appellant. The Survey was forwarded to the Council's Countryside Services Team on 4<sup>th</sup> August 2023, but as no related issues were raised by EBC consultees we did not consider it necessary to forward the document more widely.

- 3.7 In short, it was understood that all matters relating to the SSSI in connection with the appeal scheme planning application had been resolved. This was supported by Natural England's consultation responses that confirmed the relevant matters for the application and their assessment that the proposals would not harm the SSSI, subject to appropriate mitigation in the form of a Construction Environmental Management Plan and a SUDs Implementation. Both of these matters are dealt with by proposed conditions.
- 3.8 Additional environmental matters such as lighting are also dealt with by condition. As emphasised within the appeal scheme documents, the scheme again includes electric charging for all vehicle types, which will futureproof the site as vehicles transition fully away from fossil fuels and which will provide immediate benefits in terms of reduced noise and exhaust emissions potentially resulting from vehicles within the site.
- 3.9 As set out in our Statement of Case and the Council's Statement, the Council's Committee Members raised a number of concerns in relation to the SSSI but they had not carried out a site visit and as such could not reasonably have understood the current condition of the site, nor its relationship to the SSSI. Had they had any concerns about the March Orchids specifically they should have asked for clarification rather than relied on a non-expert general internet search. They had a significant amount of time to ask for further information, taking into account the time that the application had been with them and the time between their officers' having made their recommendation and the date of their Committee meeting being held. We consider the Committee also failed to give sufficient if any weight to the proposed quality of the development or to the environmental / ecology based design responses that are inherent to the proposals – namely the BREEAM Excellent rating of the development, the Biodiversity Net Gain benefits within the site and again the expert advice of their specialist advisors.
- 3.10 For information, the appellants have submitted a Freedom of Information Request to EBC in order to understand how matters relating to the SSSI had been discussed internally and between departments within the Council. This follows in part from concern over how the decision to include Reason 2 in their refusal notice was arrived at and to understand what the Council's intentions relating to the SSSI were at that time. All discussions about the purchase of the

SSSI have now stopped and the appellants are continuing their work on the improvement of that land.

- 3.11 The fact that Marsh Orchids have not been recorded on the site since 1999 has not removed the designation of the SSSI and does not alter the obligations and commitment to protect the area. The appellants are continuing to work with Natural England on the management of the land to continue to bring it back to favourable condition for the wider ecological interest that the Meadows support. The critical matter in relation to the appeal scheme is that all of the specialist advisors who have been involved, have agreed that the proposed mitigations will protect the SSSI from any potential harm and as such the appeal scheme is acceptable. In environmental terms this must again be considered alongside the very significant ecological benefits that will be provided within the site itself and that will be physically connected with the SSSI across the ecological buffers that will be provided.

#### **4.0 Appeal Case – Reason 3 – S106 Requirement**

- 4.1 The draft s106 legal agreement has been agreed between the appellant and Eastleigh Borough Council, pending circulation of the final edited copy for agreement. Hampshire County Council's solicitor is to (re)confirm the named works that the agreed highways financial contribution will be assigned to. As soon as this has been received, the final document will be completed.
- 4.2 A copy of the signed document will be forwarded to PINS as soon as possible. This will enable reason 3 for refusal to also fall away.

#### **5.0 Conditions**

- 5.3 The Council's suggested list of planning conditions is agreed. It is the same list that was previously agreed with the Council's officers for consideration by their Committee members (Officer's Report, our Statement of Case Appendix 93).

## **6.0 Conclusion**

- 6.1 We welcome the Council's agreement not to pursue reason 2 of the appeal relating to the SSSI and we anticipate that reason 3 can also be set aside very shortly, on completion of the s106 agreement.
- 6.2 We consider the very limited additional urbanising effect of the appeal scheme will not be harmful to the setting or visual context of the site. The scheme will in fact provide a number of very significant positive enhancements and benefits that will not only improve the character and visual contribution of the site and its immediate setting but that will also contribute towards meeting wider local and national ecological and employment objectives.
- 6.3 We respectfully again ask that the appeal be allowed.

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