

The Planning Inspectorate
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28th March 2024

LPA Case No: F/23/94713
Your Ref: APP/W1715/W/23/3328986
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Town and Country Planning Act 1990
Appeal by Alderbury Homes Limited
Site Address: Cockpit Farm Barn, Knowle Lane, Horton Heath

Dear Sir/Madam,

I write in relation to appeal APP/W1715/W/23/3328986 and following receipt of Eastleigh Borough Council's Statement of Case dated March 2024. The Appellant wishes to respond to the Council's comments and for ease of reference I use the same headings as that of the Council.

Housing

The Framework was revised in December 2023 in response to the Levelling-up and Regeneration Bill: which sets out reforms to national planning policy consultation and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018, updated in February 2019, revised in July 2021 and updated in September 2023.

The revised Framework retains the presumption in favour of sustainable development (paragraph 11). For decision-taking, this means that development proposals should be approved without delay if they are in accordance with an up-to-date development plan. Where there are no relevant development plan policies, or they are out of date, permission should be granted unless:

- *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*



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In accordance with Footnote 8 policies are considered to be out-of-date for applications involving the provision of housing where the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

In accordance with the revised NPPF Local Planning Authorities are not required to maintain a five-year housing land supply if they meet the two criteria in paragraph 76. These are where the adopted Local Plan is less than 5-years old, and that the Local Plan identified at least a five-year supply of specific deliverable sites when the examination concluded.

The Eastleigh Borough Local Plan was adopted in April 2022 and the final Inspector's report accepted that the Council met the requirement for a five-year supply at that point in time. However, the Inspector noted that there would be a shortfall against the housing requirement over the latter years of the plan period. This has arisen due to the removal of a Strategic Growth Option during the Examination. The Inspector's report noted that:

"Legislation requires a review of the Plan to take place within 5 years from the date of adoption. However, in the case of this Plan, I have concluded that this shortfall will necessitate an early review. This is important for a number of reasons, primarily to ensure that the shortfall is suitably addressed through the Plan making process. This is necessary to ensure that the Plan is sound. MM11 therefore outlines the requirements for an early review which the Council should commence within 1 year from the adoption of this Plan."

The Local Plan accounts for this by way of a review which is required to take place within 1 year from its adoption. The window for the Local Plan review to begin expired in April 2023. Approval from EBC Cabinet to commence work on the review was not given until 15 June 2023. Although the delay commencing the Local Plan Review is modest it is notable nonetheless. This is particularly the case when considering the timeline for the conclusion of the Review as set out in Local Development Scheme (June 2023), which indicates that submission stage will not be until Spring 2028 assuming all milestones are met (6 years beyond the adoption of the current Local Plan), with adoption not anticipated until Spring 2029 at the earliest.

Whilst the publication of the revised Framework means that the Council is not required to maintain a five-year housing land supply and the tilted balance will not apply going forward, transitional arrangements have been put in place and Footnote 79 of the Framework states that the policy contained in paragraph 76 and the related reference in Footnote 8, should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework¹. Consequently, notwithstanding the new position, the transitional arrangements mean that in this case, as it was originally submitted prior to the 19 December 2023, the original housing land supply requirements apply.

EBC published its latest figure in July 2022 which was said to be 5.1 years. However, this was tested more recently through the appeal reference APP/W1715/22/3292580 where the Inspector concluded that the Council's supply of deliverable sites is closer to 4.7 years. Accordingly, it is considered that the authority does not meet the necessary housing supply requirements and the tilted balance at paragraph 11 of the Framework is engaged.

¹ Para 46 of [APP/L3815/W/23/3319434](https://www.novaplanning.co.uk/app/L3815/W/23/3319434)

Reason for Refusal One

The parties agree that the principle of residential use is established by virtue of the planning history on the site. However, the Council contend that the Appellant has placed inappropriate emphasis on the fallback position in justifying the proposal. The Council seeks to argue that the proposal for new build housing is contrary to policy both in principle and character owing to change in scale, layout and design. The suggestion made by the Council is that the proposals are materially different to the fallback position, and thus unacceptable. The Council's Statement of Case misrepresents the Appellant's position in pinning the justification for the proposal mainly to the fallback position. Whilst the site's history is undoubtedly a material consideration as set out in the Appellant's Statement of Case (paragraphs 4.2 to 4.7 inclusive), the Appellant's case is broader and includes full consideration of the site, its context and the design response. This includes specific reference to the environmental and technical work prepared in support of the application, the positive pre-application discussions with officers and the feedback from the Council's specialists (paragraphs 4.8 to 4.20 inclusive) that resulted in a recommendation to approve the proposals. In summary the Appellant's case is:

Interpretation of Policy S5: While Policy S5 of the Local Plan may indeed discourage new private residential development in the countryside, it is important to assess the specific circumstances of this case. As set out above the Council cannot currently demonstrate a sufficient supply of housing and the tilted balance at paragraph 11 of the Framework is engaged. The adverse effect of any development therefore has to significantly and demonstrably outweigh the benefits for planning permission to be refused. In this context, the planning history on the site already firmly establishes that residential development in this location is acceptable in principle. The fact that these approvals were for reuse of existing buildings should not preclude redevelopment, especially where it serves to enhance the overall quality of the site, as is the case in this appeal.

Settlement Gap and Landscape Character: The Settlement Gap Study and Landscape Character Assessment provide valuable insights into the rural character of the area. However, it is crucial to recognise that development policies should not be applied in isolation but rather in conjunction with broader planning objectives. If the proposed development can be designed in a way that respects the rural character while meeting local housing needs, it should be given due consideration.

In this case the Appellant has taken great care to understand and respond to the sensitivities of the site in recognition of the need for new development to assimilate within its existing landscape context and in the interests of preserving the integrity of the settlement gap. The design approach was supported by the Council's planning, design and landscape officers.

The Council's Statement of Case makes multiple references to the conclusions drawn by a previous Inspector in respect of the conjoined appeals at 'The Mazels' on the opposite side of Knowle Lane. The context and planning history of that site are materially different to the current appeal scheme, and it does not follow that the conclusions made through that appeal apply equally in this case. This is not least because those appeals related to predominantly open undeveloped land within the countryside. This contrasts sharply to the current appeal that relates to a substantial dilapidated poultry house that has planning permission for the change of use to residential and commercial uses. In addition, the appeal at The Mazels was assessed against the previous Local Plan and at a time when the Council were able to demonstrate a 5-year housing land supply.



Comparison to Prior Approval Schemes: The Council's Statement of Case seeks to provide a comparison between the extant permissions on site with the appeal proposal. While the extant permissions for the reuse or conversion of existing buildings provide valuable context, they should not necessarily constrain future development options. This is because the proposed new build residential scheme offers distinct advantages in terms of housing provision and other community benefits, and it is essential to weigh these considerations against any perceived conflicts with the development plan in the context of the alternative prior approval fallback.

In this case the appeal proposal is for modern energy-efficient housing alongside the provision of new pedestrian routes that will improve pedestrian safety and accessibility on Knowle Lane, and a comprehensive landscaping scheme that delivers both a net gain in biodiversity on the site alongside visual enhancement of the settlement gap. In the Appellant's opinion these benefits should be afforded significant weight in the planning balance because they extend beyond that which is necessary to make the development acceptable by offering wider benefits to the local community and the natural capital of the area. By contrast, whilst the prior approvals on the site will retain the existing structure, none of these additional benefits would be secured.

Whilst the Appellant acknowledges that the proposed landscaping will also help to screen the development, it does not evidence as the Council would suggest a greater visual impact. The existing building is already visually prominent in views, both immediately adjacent to the site on Knowle Lane, as well as from views on Botley Road (adjacent the Lapstone Public House), where its white painted facades and visual mass are plainly visible. While the proposals will result in a development that is marginally taller, it remains modest in scale and the mass has been broken up. In addition, a more muted palette of materials has been selected resulting in a design that is more regressive in appearance.

Reason for Refusal Two

The Appellant welcomes the Council's withdrawal of reason for refusal two.

Reason for Refusal Three

The Appellant acknowledges the comments made by the Council at paragraph 7.22 of its Statement of Case and accordingly has completed an updated Nutrient Budget Calculation in accordance with the most recently published calculator. Alongside this the Appellant has renewed its expression of interest with the Council's Nutrient Offsetting Scheme and correspondence with the Council confirms that there remains sufficient mitigation to offset the proposed development. The updated calculator and associated correspondence are enclosed with this closing statement.

The Council and Appellant agree that the proposed approach to mitigating the effects of the development is acceptable, can be adequately secured by condition and deliverable in the lifetime of the development.

Proposed Conditions

The Appellant supports the proposed conditions included at Appendix 6 of the Council's Statement of Case, as these largely reflect what was presented to Planning Committee as part of the Officer recommendation for approval. In respect of condition 21 which seeks substantial removal of permitted development rights across

Parts 1 and 2 of Schedule 2, provided the Inspector is satisfied that this meets the relevant tests then the Appellant is happy to accept this limitation.

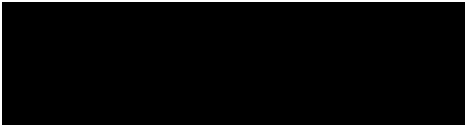
In response to the Council's comments at paragraphs 7.26 and 7.27 these closing comments are accompanied by updated drawing reference SE.01 (Rev A) correcting the minor discrepancy highlighted by the Council, and the latest Landscape Strategy Plan reference L01 Rev F.

Response to Third Party Representations

Three third party representations have been submitted in respect of the current appeal. The representations raise no new or relevant concerns that require further consideration. However, it is observed that one highlights a preference for the appeal scheme over the fallback position, whilst another stresses the current lack of pedestrian infrastructure on Knowle Lane for existing dog walkers despite it being well used, which the scheme will help address through the provision of a permissive path.

Summary and Conclusions

The proposal is for the erection of six dwellings on land with extant planning permission for a mix of residential and commercial uses. The substantial collective benefits of the scheme significantly and demonstrably outweigh any residual harm arising from the development. The proposal will make a meaningful contribution to housing in the local area where there is a demonstrable shortfall in housing supply, and it is respectfully requested that this appeal be allowed.



Jacob Goodenough
Director

Cc. Alderbury Homes Limited

Enc. Street Elevations SE01 Rev A
Landscape Strategy Plan L01 Rev F
Nutrient Budget Calculator
Expressions of Interest X 2 (Nitrates and Phosphates)
Correspondence with EBC Nutrient Offsetting Scheme

