

Planning Inspectorate
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Wessex Planning Ltd
Meadowsweet Cottage
Morleys Lane
Ampfield
Romsey
SO51 9BJ

25 May 2025

Dear Sir/Madam

Appeal Reference APP/W1715/W/25/3363580

Erection of 6no. dwellings with associated parking and landscaping and creation of new access from Winchester Road

Land adjacent to Pear Tree PH, Winchester Road, Southampton, Hampshire

In response to the Local Planning Authority's appeal statement, I would request that the following comments are taken into account in addition to those made in the substantive appeal statement submitted by the appellant in the original appeal submission.

Firstly, the LPA and local residents remain under the impression that this area of land is part of the pub lease to the current pub tenant. This is not the case. The tenant is permitted to use the land, the subject of this appeal, only under a licence. This has always been the case and the licence can be revoked at any time.

Additionally, many of the local resident objections suggest that this site is the only area of open space in the local area. In response I would direct the Inspectors attention to paragraphs 4.11-4.23 of the appellant's statement, which demonstrates the substantial provision of all types of public open space (including play areas) and other community facilities provided as part of the large scale development of the area.

The LPA state that the contribution of 6 dwellings to the lack of housing land supply is modest. In response, I would draw the Inspectors attention to Paragraph 73 of the NPPF which states:

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly."

The updated 5 year housing land supply position attached to the LPA's appeal statement provides 162 dwelling allowance for windfall development at paragraph 4.31. This site is considered to represent a significant, rather than a modest contribution to this number.

Furthermore, the applicant is a local, small housebuilder who is reliant on site to come forward in order to carry on in his business. Any delay in the grant of planning permission can put a smaller housebuilder out of business who usually have a requirement of 5 or 6 permissions a year. This is an important economic consideration because if just one of those sought permissions end in a refusal/dismissal, this has a much more significant impact on a smaller housebuilder than it would a volume housebuilder. Whilst volume housebuilders create large estates such as those surrounding this site, they work to longer timescales and have larger budgets for seeking planning permission. It is considered important to support a mix of volume and smaller housebuilders to provide choice in the housing market. The proposed new homes would be largely completed before the end of 2025 if this appeal is allowed. Dismissing this appeal would run contrary to government support for smaller housebuilders who face an existential threat to their existence due to the monopoly of land control by volume housebuilders. Volume housebuilders also have budgets to lobby central government to produce a planning system that serves their interests negating against small sites and therefore smaller housebuilders. With limited competition in the market, volume housebuilders can then choose when to deliver their housing, thus reducing supply and increasing the prices of new homes. Encouraging more competition in the housing market is the only way to make inroads into reducing the rate of increase in house prices.

The LPA highlight the fact that *"each case must be considered on its own merits, in the context within which it falls and on the grounds of its specific and particular impacts, rather than on the basis of a generalisation that as some residential development may have been approved within the countryside, any development should thereby be allowed."* In response, the appellant would agree that each case must be considered on its own merits. The Inspector will be able to clearly see that this site has not been brought forward simply because it is surrounded by other designated 'countryside' development, but is proposed after a careful consideration of the character of the 'countryside' in this particular area, with each feature that makes up this character assessed and addressed.

The LPA also suggest that Paragraph 3.19 of the appellant statement 'intimates' that the Local Plan system is to be ignored. In response, this is a misinterpretation of that sentence. All that this paragraph means is that, in the context of considering a site that is not included for development within the Local Plan, the development management process is available to consider the design and layout detail, which can never be replicated in the Local Plan adoption system. Hence the difficulties the LPA is experiencing with the design and layout of the still current application at Oak Cottage, to the north of the site. This is an allocated site that has been through several design and layout iterations in an attempt to find a design that respects the features that make up the character of the area whilst providing the number of homes allocated in the Local Plan.

With regard to the LPA's discussion in relation to their Heritage Officer's consultation response, the appellant statement simply requests the Inspector to note the comments.

In relation to the LPA's second reason for refusal, the LPA retain their view that the pub's viability would be threatened if this site were developed. Whilst the appellant's statement addresses this in detail, it should be noted that, firstly, neither the LPA nor local residents have submitted any evidence whatsoever to substantiate their fears that pub's viability would be threatened as a result

of the appeal proposal and, secondly, the viability of this pub is much more likely to have greatly improved as a result of the recent development of thousands of new homes within walking distance. The appeal proposal will not prevent the pub reconfiguring itself to provide an outside play area if it believes this to be vital to viability. As previously stated this pub has gone from being a remote 'country pub' requiring vehicle access and car parking to visit, to a pub within a highly populated suburban area with easy walkable access.

The LPA comments with regard to noise are fully addressed within the appellant's appeal statement. The appellant considers the noise impact to be overstated by the LPA.

With regard to the provision of off-site BNG, Planning Practice Guidance states:

"Development may not be begun until the Biodiversity Gain Plan is approved. Given this, it would generally be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met. However, decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged."

Therefore it is generally inappropriate to include a reason for refusal on BNG grounds because other legislation controls the provision of BNG. In relation to a Section 106 agreement for off-site BNG provision, the LPA appear to be unaware that such an agreement can be produced at any time in order to discharge the relevant statutory condition. Such an agreement does not have to be produced before permission is granted. It can be produced after permission has been granted specifically to discharge the statutory condition.

Nonetheless, as a Unilateral Undertaking is being produced to address other requirements, and so the appellant has taken the opportunity to insert a clause that requires the provision of off-site BNG prior to the commencement of development from an LPA-approved provider. This could be through Biodiverse Ltd, once their scheme is covenanted, or it could be through any other provider approved by the LPA. It could even be through central government's approved credit system. Off-site BNG schemes are being added to the centrally approved government register each week. The Unilateral Undertaking therefore gives complete confidence that the off-site BNG will be in place before development commences, as is required. As set out in the appellant's statement, full details of the off-site BNG provision are not required at application stage. Only 'reasonable prospect' of the statutory condition being discharged prior to the commencement of development is required, rather than the more onerous test of 'certainty' under the Habitat Regulations.

The Inspectorate are aware of the delays in the execution of the Unilateral Undertaking due to the ill-health of the appellant's solicitor. This has pushed back its production. It is expected that the executed S106 will be with the Inspectorate and the LPA within the next week.

The LPA have confirmed the level of the 'Bird Aware' contribution has increased to £5,442. The updated figure will be included within the finalised Unilateral Undertaking.

The LPA have included a list of conditions to be imposed should the Inspector allow the appeal. In response, the appellant does not agree that Conditions 12 (a new noise assessment) or 16 (the removal of permitted development rights) are appropriate or necessary. The noise assessment provided is robust, and the removal of permitted development rights is discouraged by planning practice guidance. Any other deletions or insertions by the Inspector are agreed.

Yours faithfully



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Director
Wessex Planning Ltd

