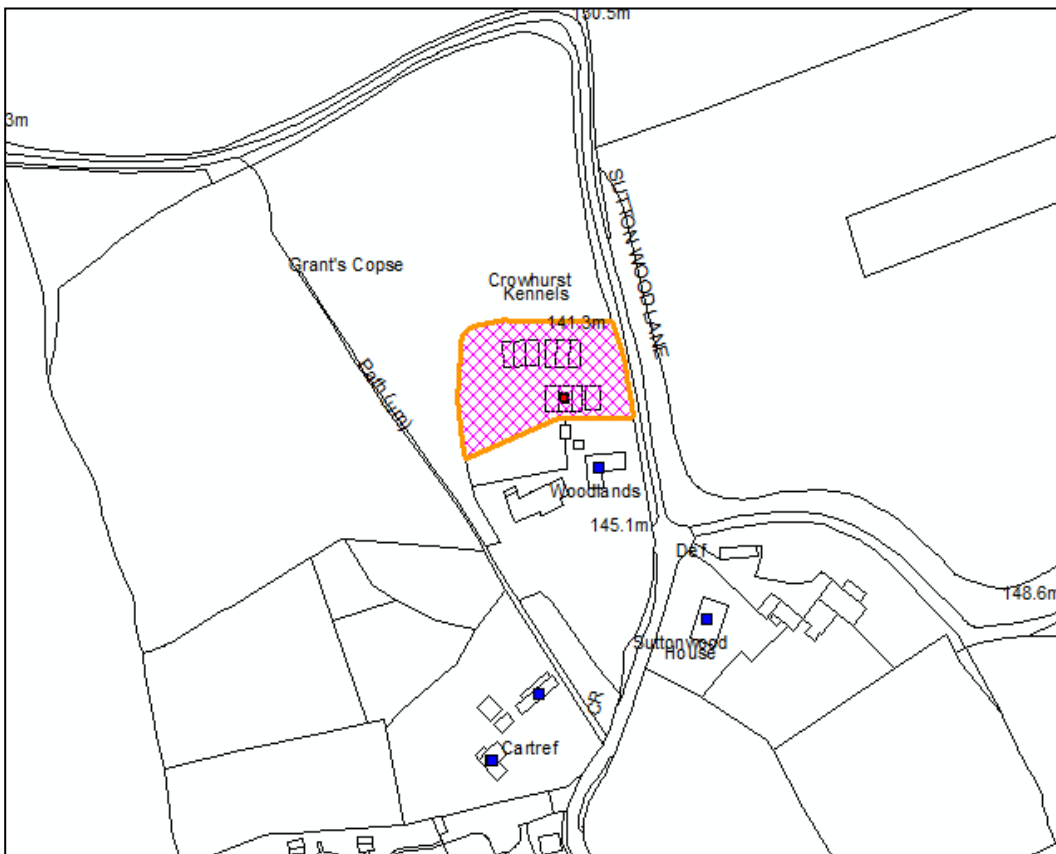


WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 23/00240/FUL
Proposal Description: Proposed Demolition of 3 Economically Redundant Kennels Buildings and Erection of a Replacement Dwelling, Creation of New Access, Parking and Landscaping Works
Address: Crowhurst Kennels Sutton Wood Lane Bighton Hampshire SO24 9SG
Parish, or Ward if within Winchester City: Bighton Parish Council
Applicants Name: Mr & Mrs Richard & Pat Bacon
Case Officer: Catherine Watson
Date Valid: 31 January 2023
Recommendation: Application Refused
Pre Application Advice Yes

Link to Planning Documents

[Link to page – enter in reference number: 23/00240/FUL](https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple)
<https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple>



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Reasons for Recommendation

The development is recommended for refusal as it represents a new residential dwelling in the countryside without justification, as well as causing harm to the adjoining ancient woodland, contrary to local and national planning policy. The proposal has also failed to provide satisfactory mitigation measures to compensate for the likely significant detrimental impact on European protected sites through increased nutrient loads.

General Comments

The application is reported to Committee because of the number of letters of support received contrary to the Officer's recommendation.

Amendments to Plans Negotiated

None

Site Description

The site is situated on Sutton Wood Lane near to the village of Bighton. It is within the countryside. The total area of the redline site is approximately 2800sqm and includes three, now redundant, dog kennel boarding buildings. The larger landholding is marked on the location and site plans in blue and includes the residential unit of Woodlands. The land slopes from east to west, towards an area of ancient woodland called Grants Copse which is immediately adjacent to the north of the site. A public right of way is located to the west.

Proposal

The proposal is for the demolition of the existing, redundant dog kennels and the construction of a new dwelling, the creation of a new access, parking and landscaping works.

Relevant Planning History

79/00183/OLD - Change of use from Kennel block to offices. PER 22nd June 1979.

79/00184/OLD - Proposed alterations and two storey extension to provide additional accommodation. PER 15th May 1979.

86/00158/OLD - House and garage for kennel workers. REF 23rd October 1986.

87/00156/OLD - Change of use of garage to office/store, erection of dog kennels and WC. PER 9th June 1987.

90/00136/OLD - First floor extension and formation of rooms in roofspace. REF 20th April 1990.

95/00120/OLD - Replacement isolation kennels. PER 9th May 1995.

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04/00891/LDC - Continued use and occupancy of land for residential purposes (CERTIFICATE OF LAWFULNESS). LDCREF 17th August 2004.

13/01528/FUL - Demolition of existing dwelling and five outbuildings; erection of 1no. new two storey four bedroom dwelling; erection of a new detached outbuilding for use as a kennel reception, garage and ancillary functions. PER 12th November 2013.

Consultations

Service Lead for Community and Wellbeing (Landscape)

Comments: The site is located in the countryside and therefore is against policy for development as a dwelling. The site is screened in the most part with some inter-visibility from the adjacent PRow although photos included have been taken in the summer months so do not show the worse-case scenario, and the access off Sutton Wood Lane would require removal of hedgerow and open up views into the site. Further details of landscape management and the sustainable drainage systems are required.

Service Lead for Community and Wellbeing (Trees)

Objection: Standing advice from Natural England and Forestry Commission is that there should be a 15m buffer strip between Ancient woodland and development, meaning that there should be no development or disturbance or contamination of soil within this buffer strip to protect the trees on the edge of the ancient woodland. This would include activities that may have impact on drainage or water runoff from hard surfacing. The application should be refused as there are no wholly exceptional reasons submitted to carry out construction activities within the 15m Woodland buffer strip.

Service Lead for Community and Wellbeing (Ecology)

Objection on the basis that the application site is located immediately to the south of a pocket of Ancient Woodland and a 15m buffer as per Natural England's guidelines is not being provided. The submitted BNG figures have been amended but there are questions over whether the proposed biodiverse roof is viable.

Service Lead for Public Protection (Contaminated Land Environmental Health)

Comment. The development is situated next to a registered landfill used for the disposal of dog waste and the applicant needs to demonstrate that the waste deposited does not present a risk to the future users. This could be secured by conditions.

Service Lead for Engineering, Transport and Special Maintenance: Drainage

Comment: As the site is in FZ1 and there is a low risk of surface water flooding, I have no objections to this new development on flood risk grounds, subject to a pre-commencement condition for surface water and foul drainage. Further details are required about surface water drainage.

Southern Water

Comment: The Environment Agency should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation. More details are required about the proposed Sustainable Drainage Systems (SuDS).

Hampshire County Council (Highway Authority)

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Comment. The Highway Authority have no objections regarding the visibility for the new access or proposed parking but the access will need separate consent from HCC.

East Hampshire District Council

No response received.

Representations:

Bighton Parish Council

No objections but the following comments:

- The plans have been carefully thought out.
- The application uses a brown field site – The PC ask that WCC remove any possible commercial use of the site in the future - to prevent anyone reinstating the kennels or any other commercial activity.
- The proposed dwelling would be a development within the countryside but this is offset by the benefit of increasing the stock of smaller dwellings within the parish and provides the opportunity to classify the site as appropriate for residential use.
- The Councillors and parishioners do have concerns about the proposed new entrance. We ask that Highways visit the site, as the lane is very narrow and the road gradient means that visibility from the proposed entrance is poor.
- Should the application be granted the Councillors ask that a traffic management scheme is agreed before construction commences.

1 Objecting Representation received from 1 address citing the following material planning reasons:

- The sighting from the proposed dwelling onto Sutton Wood Lane is very poor from any direction;
- There are safety issues on the road and there is a nearby accident blackspot.

8 Supporting Representations received from 7 addresses citing the following material planning reasons:

- The current building is no longer fit for purpose;
- There is a shortage of smaller properties in this area;
- The proposals are sensible, viable and a preferable alternative to the previous use;
- It's a high quality building built to Passivhaus standards;
- The use will reduce noise pollution which formed part of the kennel use;
- There will be less traffic as it is proposed for residential use, rather than as a commercial kennels.

Relevant Government Planning Policy and Guidance

National Planning Policy Framework

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places

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14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

National Planning Practice Guidance

Appropriate Assessment
Climate Change
Determining a planning application
Land affected by contamination
Natural environment
Renewable and low carbon energy
Use of planning conditions

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1). DS1 – Development Strategy and Principles

DS1 – Development Strategy and Principles
MTRA4 – Development in the Countryside
CP1 – Housing Provision
CP9 – Retention of Employment Land and Premises
CP11 – Sustainable Low and Zero Carbon Built Development
CP13 – High Quality Design
CP16 – Biodiversity
CP17 – Flooding, Flood Risk and the Water Environment
CP20 – Heritage and Landscape Character

Winchester District Local Plan Part 2 – Development Management and Site Allocations

DM1 – Location of New Development
DM11 – Housing for Essential Rural Workers
DM15 – Local Distinctiveness
DM16 – Site Design Criteria
DM17 – Site Development Principles
DM18 – Access and Parking
DM21 – Contaminated Land
DM23 – Rural Character
DM24 – Special Trees, Important Hedgerows and Ancient Woodlands

Supplementary Planning Document

National Design Guide 2019
High Quality Places 2015
Air Quality SPD September 2021
Residential Parking Standards December 2009

Other relevant documents

Climate Emergency Declaration Carbon Neutrality Action Plan 2020 – 2030
Statement of Community Involvement 2018 and 2020

Planning Considerations

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 47 of the National Planning Policy Framework (NPPF, 2021) require that applications for

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planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The site is in the countryside as defined by the local plan and therefore new residential development is not acceptable unless it is necessary to support an agricultural or forestry activity or in exceptional circumstances for affordable housing (policies MTRA4 and CP4 of the LPP1 and DM11 of the LPP2). This is not the case here and the applicant's main justification for the new dwelling is that this is a more sustainable and beneficial form of development than the current derelict kennels.

However, the development plan does not allow new housing within the countryside and the argument that a dwelling here is an improvement on the existing kennel buildings has a low degree of material weight when evaluated against the clear policies of the development plan which seek to direct such development away from the countryside and within sustainable settlement locations.

Purported benefits arising from the proposal such as a reduction in vehicle movements, an improvement in appearance, other ecological enhancements and a net reduction of development on site similarly have insufficient weight to warrant a departure from the development plan.

As such the proposal is contrary to the NPPF paragraph 80 and policies DS1 and MTRA4 of the LPP1 and policy DM1 of the LPP2 and is unacceptable in principle.

The proposal involves the loss of kennels and policy CP9 of the LPP1 seeks to retain employment land and premises. However, this policy only relates to land and floorspace within use Classes B1 (now class E), B2 or B8, whereas a kennels use is considered to be sui generis and therefore does not trigger policy CP9.

Assessment under 2017 EIA Regulations.

The development does not fall under Schedule I or Schedule II of the 2017 Environmental Impact Assessment Regulations, therefore an Environmental Impact Assessment is not required.

Impact on character and appearance of area

The site is screened from public views in the most part with some inter-visibility from the adjacent public right of way. The proposed dwelling would occupy less of a footprint than the existing kennels but is a taller structure. It is however single storey and due to its scale, design and materials would not be any more intrusive than the existing structures. It is not considered however that the existing structures are unduly visually intrusive or harmful to surrounding views and so not accepted that the proposed dwelling would greatly enhance the environment due to its higher quality appearance.

In any case, as noted above, a new dwelling in the countryside is harmful intrinsically by introducing unjustified development in an unsustainable location. Therefore, while the impact of the proposal on the character and appearance of the area may be neutral and not directly in conflict with Policy CP20 of the LPP2 which requires that development preserves landscape character, it remains unacceptable in principle.

Development affecting the South Downs National Park

Government policy relating to National Parks is set out in English National Parks and the
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Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) updated 2021. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

The application site is located over 3km from the South Downs National Park and therefore the development will not affect any land within the National Park and is in accordance with Section 11a of the National Parks and Access to the Countryside Act 1949.

Historic Environment

The proposed development is approximately 250m from the nearest listed building which is to the north and will have no impact on it. The development does not affect any conservation areas, archaeology or Non-Designated Heritage Assets including their setting.

Neighbouring amenity

The proposed dwelling would be located to the north of Woodlands which is a two storey dwelling. Woodlands is over 20 metres from the proposed boundary for the new dwelling. Given the distances involved and the fact that the proposed dwelling is single storey it is not considered that there would be any materially adverse impact on residential amenity arising from the proposal by overlooking; overshadowing or overbearing.

Therefore the proposal complies with policy DM17 of the LPP2.

Sustainable Transport

The application involves the development of a new access and a site entrance leading into a forecourt area, enabling parking, vehicular turning and access to the dwelling. It also includes the closing up of the existing access and reinstatement of grass verge. The Highway Authority have advised that they have no objections regarding the visibility splays for the new access or the amount of parking being provided for the proposed dwelling.

The Highway Authority have noted that separate permission will need to be granted from HCC for the proposed vehicle access works but this is not a planning matter. The proposal will therefore have no impact on highway safety and complies with policy DM18 of the LPP2.

Ecology and Biodiversity

Nutrient Neutrality

As the application is for an additional dwelling it is likely to have potential significant effects on European protected sites in the Solent, including the Solent and Southampton Water Special Protection Area (SPA) and Solent Maritime Special Area of Conservation (SAC), in addition to the River Itchen SAC through excess nutrient loads. This involves both Nitrogen and Phosphorous input.

To address this the applicant has submitted a Nutrient Neutrality Assessment and Mitigation Report. This proposes a bespoke methodology to calculate the nutrient impact that the proposed development will have on the designated sites. The methodology

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suggests there is an existing high nutrient content found in dog waste at the commercial kennels. The applicant has used the results of this to inform their nutrient budget calculations. The applicant's calculations have concluded that the development will be nutrient-neutral due to the existing condition on site arising from the former use as kennels.

However, Natural England have been consulted and refute this methodology on the basis that pet waste is already included in the existing baseline for urban land use types in Natural England's nutrient calculator for the River Itchen. Therefore the applicant is incorrect to count this again in their nutrient budget. In addition to this, Natural England have advised that as the kennels are now redundant this use should not be factored into the calculations.

On the basis of this advice it is considered that the application fails to make satisfactory avoidance and mitigation measures to compensate for the likely significant detrimental impact on European protected sites. Therefore it is concluded that the adverse effects arising from the proposal in this regard conflict with Policy CP16 of the LPP1 and a reason for refusal is proposed as the development cannot suitably demonstrate or secure nutrient neutrality as required for the Conservation of Habitats and Species Regulation 2017.

Given that the application fails to mitigate the adverse impacts on the European designed sites the Council has not completed an additional Appropriate Assessment for the development.

Ancient Woodland

The application site is located immediately to the south of a pocket of Ancient Woodland. Whilst the existing redundant kennels are located within approximately 7m of the Ancient Woodland boundary, any redevelopment of the site should take into account the presence of this finite and ecologically valuable habitat which is recognised as such at a national level through its protection within NPPF.

The supporting Ecological Appraisal fails to assess the indirect impacts of the proposal on this irreplaceable habitat. The NPPF states that "*planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss*". Natural England recommend an appropriate buffer zone of semi-natural habitat is retained between a development and the Ancient Woodland. Depending on the size of development, a minimum buffer should be at least 15 metres. Whilst the submitted layout will not result in the loss of Ancient Woodland, the residential garden will be within the recommended buffer which cannot act as a semi-natural buffer and will result in indirect impacts through accidental pollution, garden waste disposal, soil compaction, presence of domestic pets and most importantly, spread of non-native or invasive garden plants, resulting in the deterioration of the Ancient Woodland.

The applicant has confirmed that the provision of a 15m buffer as per Natural England's guidelines is not possible and have offered a 7.5m planted buffer along the edge of the woodland. This is not considered to be adequate and the application is therefore also considered unacceptable and contrary to policy DM24 of LPP2, due to the impact of the proposal on the Ancient Woodland.

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Biodiversity Net Gain (BNG)

The proposals seeks to make provision for Biodiversity Net Gain through features such as a biodiverse green roof. While there are concerns that this may not be viable, as BNG has not been mandated yet, it is not a shortcoming that would warrant a reason for refusal.

There are no other concerns with the application regarding impacts on other protected species or habitats but due to concerns about the impact on the Ancient Woodland as mentioned above, the application is considered to be in conflict with policies DM24 of the LPP2 and CP16 of the LPP1.

Sustainability

Developments should achieve the lowest level of carbon emissions and water consumption which is practical and viable. Policy CP11 expects new residential developments to achieve Level 5 for the Energy aspect of the Code for Sustainable Homes and Level 4 for the water aspect. If the application were being recommended for approval details of how the proposal would meet these levels would be required by conditions. It is accepted that the applicant is aiming to provide an energy efficient building and there is not considered to be any conflict with Policy CP11.

Sustainable Drainage

The site is in flood zone 1 and there is a low risk of surface water flooding. The application is proposing a Sustainable Drainage System (SuDS). Further information is required about this but this could be secured via condition if the application were being recommended for approval. In these circumstances there is no conflict with policies CP17 of the LPP1 and DM17 of the LPP2.

Equality

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of our duty.

Planning Balance and Conclusion

The proposed development is contrary to LPP1 Policies DS1 and MTRA4 and LPP2 Policy DM1 in that it is for the residential development of land defined as countryside in the local plan where residential development is not permitted. The site is situated in an unsustainable countryside location for which there is no justification and there are no sufficiently weighted material considerations, including the NPPF, which would justify making a departure from the development plan in the determination of the application.

The application site also fails to provide an adequate buffer zone between the curtilage of the dwelling and the adjacent Ancient Woodland, in conflict with Natural England guidance, and it is therefore considered that the development will result in the deterioration of the Ancient Woodland in conflict with policies DM24 of the LPP2 and CP16 of the LPP1.

The applicant has also failed to provide satisfactory mitigation measures to compensate for the likely significant detrimental impact on European protected sites in conflict with Policy CP16 of the LPP1.

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The application is therefore not in accordance with the development and recommended for refusal.

Recommendation

That the application be refused for the following reasons;

01 The proposed development is contrary to LPP1 Policies DS1 and MTRA4, and LPP2 Policy DM1 in that it is for the residential development of land defined as countryside in the local plan where residential development is not permitted unless it is essential to support an existing agricultural or forestry activity, or in exceptional circumstances, for affordable housing to meet demonstrable local housing needs. The proposal does not fit these criteria and is unsustainable and inappropriate development in the countryside for which there is no justification. There are no sufficiently weighted material considerations, including the NPPF, which would justify determining the application other than in accordance with the development plan.

02 The proposed development is contrary to LPP2 policy DM24 and LPP1 Policy CP16 and paragraph 180 c) of the NPPF in that it fails to provide an adequate buffer zone between the curtilage of the dwelling and the adjacent Ancient Woodland, in conflict with Natural England guidance, and it is therefore considered that the development will result in the deterioration of the Ancient Woodland.

03 The proposal will result in a new dwelling within the Solent catchment area which will cause additional nitrates to be deposited into the Solent Special Protection Area. In the absence of mitigation, the proposal is contrary to Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 and LPP1 Policy CP16 as the proposal will have a significant detrimental impact on a European protected site though an increase in nitrate input.

Informatives:

1. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1). DS1 – Development Strategy and Principles

DS1 – Development Strategy and Principles

MTRA4 – Development in the Countryside

CP1 – Housing Provision

CP9 – Retention of Employment Land and Premises

CP11 – Sustainable Low and Zero Carbon Built Development

CP13 – High Quality Design

CP16 – Biodiversity

CP17 – Flooding, Flood Risk and the Water Environment

CP20 – Heritage and Landscape Character

Winchester District Local Plan Part 2 – Development Management and Site Allocations

DM1 – Location of New Development

DM11 – Housing for Essential Rural Workers

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DM15 – Local Distinctiveness

DM16 – Site Design Criteria

DM17 – Site Development Principles

DM18 – Access and Parking

DM21 – Contaminated Land

DM23 – Rural Character

DM24 – Special Trees, Important Hedgerows and Ancient Woodlands

2. In accordance with paragraph 38 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;

-offering a pre-application advice service and,

-updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case the application was discussed with the agent but solution was possible due to the principle objections to the scheme.