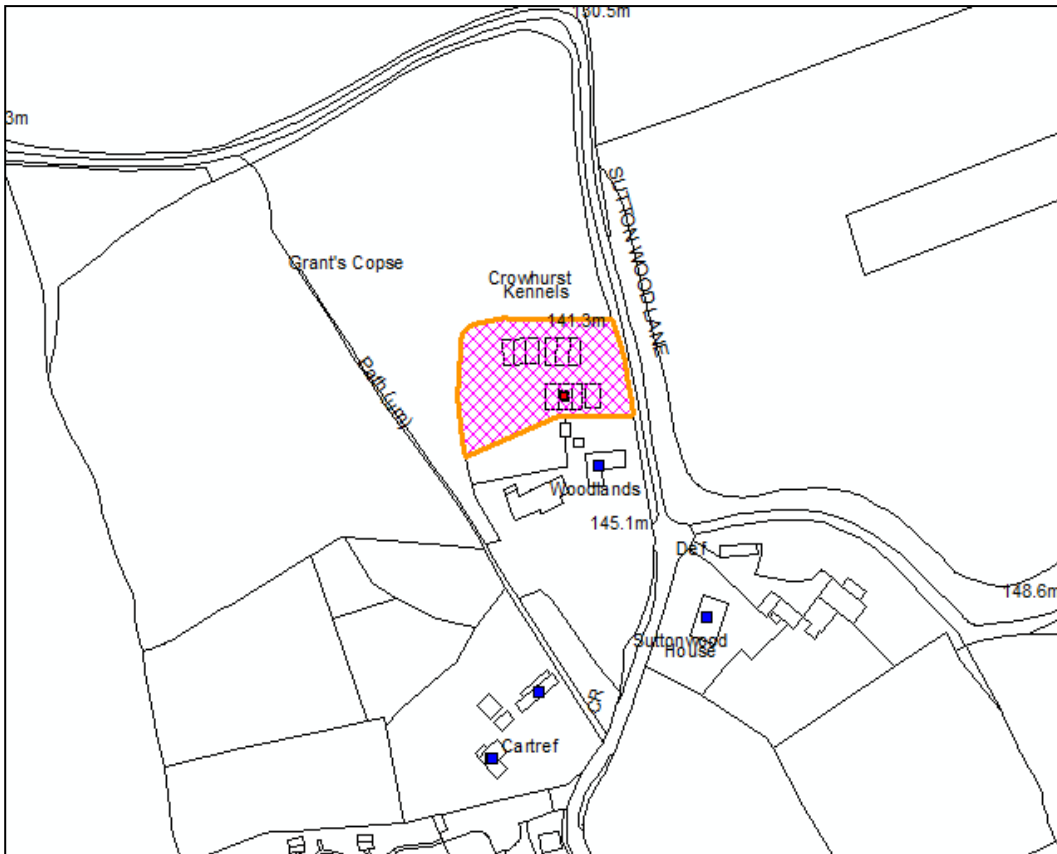


WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 24/00163/FUL
Proposal Description: Resubmission of refused application 23/00240/FUL - 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 Alresford Hampshire
Parish, or Ward if within Winchester City: Bighton Parish Council
Applicants Name: Mr & Mrs Richard & Pat Bacon
Case Officer: Megan Osborn
Date Valid: 6 February 2024
Recommendation: Application Refused
Pre Application Advice Yes

Link to Planning Documents

[Link to page – enter in reference number 24/00163/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.

This application is a resubmission of a previously refused application (23/00240/FUL). This application was 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.

Since the previous refusal the applicant has made a slight change to the location of the proposed dwelling. They have provided a Woodland Management plan and more information in respect on Nutrient Neutrality.

The applicant has not addressed the concerns in relation to reason for refusal 1, but provided information to address reasons for refused 2 and 3.

Amendments to Plans Negotiated

Amended plans have been provided showing the garden of the proposed dwelling set 15 metres away from the adjacent ancient woodland.

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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. Permitted 22nd June 1979.

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

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

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

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

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

04/00891/LDC - Continued use and occupancy of land for residential purposes (CERTIFICATE OF LAWFULNESS). Refused 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. Permitted 12th November 2013.

23/00240/FUL - Proposed Demolition of 3 Economically Redundant Kennels Buildings and Erection of a Replacement Dwelling, Creation of New Access, Parking and Landscaping Works. Refused 16th August 2023.

Consultations

Service Lead – Sustainability and Natural Environment (Ecology) –

- Comments received 7th Feb 2024 – The ecologist can see some improvements on the previous scheme, however, still raises concerns that need to be addressed.

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- Further comments received 18th April 2024 with responses to ecology comments. The comments object further in relation to the curtilage of the dwelling being within the 15m buffer to the ancient woodland.
- Further comments on the 22nd April 2024 reinforcing the concerns about encroaching onto the woodland.

Service Lead – Sustainability and Natural Environment (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 15 buffer strip between Ancient woodland and development, meaning that here 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 amended plans show that the development is outside of this 15m buffer and therefore is acceptable.

Service Lead – Public Protection (Contamination) –

- No objections, subject to conditions.

Hampshire County Council (Highway Authority) –

- No objections.

Natural England -

- No objections to the proposed mitigation proposals.

Representations:

Bighton Parish Council –

They felt the plans had been carefully thought out.

The application uses a brown field site – The PC asks 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. Although there were some concern that the size of the dwelling was still quite large for a couple downsizing. The site, having originally had one bungalow, would then have 2 houses and an annexe.

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Would this open the floodgates for more development in back gardens?

The Councillors and parishioners do have concerns about the proposed new entrance. The lane is very narrow and the road gradient means that visibility from the proposed entrance is poor. The council did question whether there was sufficient length to the right of the entrance for the proposed splay.

Should the application be granted the Councillors ask that a traffic management scheme is agreed, before construction commences especially looking at how the construction traffic is accessing the site. The council feel this should be through the existing access, as there would be little room to manoeuvre in the new access especially as the dwelling has been moved to accommodate the required woodland buffer zone.

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

- The proposed dwelling would tidy up the site and result in a vast improvement from the existing kennels.
- Reduction in noise from Kennels
- Good use of a brownfield site
- Reduction in traffic
- Benefit to ecology
- An eco-friendly dwelling

3 other letters of support received from addresses outside of the district.

Relevant Government Planning Policy and Guidance

National Planning Policy Framework (December 2023)

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
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

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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

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

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, 2023) require that applications for 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.

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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 84 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 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

The application site is located 5.2km from the South Downs National Park

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) updated 2023. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 182 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.

Due to the distance and intervening features, an adverse impact on the National Park and its statutory purposes is not identified.

In conclusion 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.

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Historic Environment

No Impact, the works do not affect a statutory Listed building or structure including setting; Conservation Areas, Archaeology or Non-designated Heritage Assets including setting.

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 proposed development includes the demolition of 3 redundant kennel buildings, the erection of a replacement dwelling with the creation of a new access, parking and landscape works.

The proposed dwelling is to be accessed via a new vehicle crossover, located from the southern edge of the eastern boundary. The applicant has provided details of the observed traffic data, conducted during a neutral period, demonstrating the 85th percentile speed northbound and southbound being 29.4mph and 28.6mph. Drawing ITB1811-GA-001 has been submitted, displaying a visibility splay of 2.4m x 43m. This is accepted by the highway authority, as the visibility splays align with Hampshire County Councils Technical Guidance. The Transport Assessment states if granted permission, fence lines will be adjusted out of the visibility splay, and vegetation will be cut down. This should be conditioned to ensure all vegetation is maintained at 0.6m to secure the approval lines of site splays on Drawing ITB1811-GA-001 are kept free of any obstruction exceeding in height above the adjacent carriageway and shall be subsequently maintained so thereafter.

The proposed site plan labels an entrance gate at the access of the site. This is accepted by the highway authority but, if the application were acceptable, would need to be conditioned to ensure the gate is set back to allow enough room for an estate vehicle to wait at the site access.

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 proposed level of parking to be provided does not raise concerns regarding overspill parking on the local highway.

The Transport Assessment states refuse collection is to occur on street, with bins presented for collection at the site frontage, and any servicing will also occur in the same manner.

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The proposal will therefore have no impact on highway safety and complies with policy DM18 of the LPP2.

Ecology

The application is supported by a Preliminary Ecological Appraisal which sets what biodiversity is on site and proposes various measures to mitigate any impacts on this. The conclusions of this appraisal are generally acceptable apart from the impact on Ancient Woodland which was not considered to be acceptable based on the plans as originally submitted.

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.

Concerns were raised by the council's ecologist in relation to potential impacts on the adjacent ancient woodland. Development, including changing land to garden curtilage, should not occur within 15 metres of ancient woodland.

In response to this, the applicant has amended the site plan to show both a proposed pond and the garden boundary outside the 15m buffer. The proposed building itself is also outside of the 15m buffer. If the application were being recommended for approval, it could be conditioned to ensure that this revised plan is adhered to and that the strip of land forming the 15 metre buffer is not incorporated into the garden or developed, or that any invasive species of plants are introduced which might be harmful to the adjacent woodland.

In these circumstances, the adverse impact on the ancient woodland has been satisfactorily addressed and a reason for refusal on this issue is not necessary.

The application was submitted before Biodiversity Net Gain was mandatory and therefore there is no formal requirement for the proposals to provide a 10% biodiversity net gain. However, there are some positive elements of the proposals in relation to biodiversity including the proposed pond.

Therefore the proposal complies with policy CP16 of the LPP2.

Appropriate Assessment.

The proposed development is for 1 new unit of residential accommodation, along with an existing unit of residential accommodation.

The development would therefore result in a net increase of residential overnight accommodation within the Winchester District. In line with Policy CP16 of the Winchester City Council Local Plan Part 1 Joint Core Strategy, and the WCC position statement on nitrate neutral development, a permanent significant effect on the Solent SPAs due to increase in eutrophication as a result of the new development, is not likely.

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The proposed solution is to replace the existing septic tank with a new package treatment plant. This will be a small wastewater treatment system BioDisc +P by Kingspan Water and Energy Ltd.

The site is currently served by a septic tank however, it will be possible to connect both the existing dwelling and the new dwelling up to the mains drainage.

The applicant has undertaken 2 assessments of nutrient load, the first relating to the septic tank and the 2nd to the mains drainage.

It has been determined that the septic tank has a nitrogen budget which demonstrates that there will be a nitrogen input into the Solent catchment area of 11.9 kilograms of total nitrogen per year (kg/TN/year, with 20% buffer applied). The package treatment plant solution, as set out above, gives a nitrogen budget which demonstrates that there will be a nitrogen input into the Solent catchment area of 4.01 kilograms of total nitrogen per year (kg/TN/year, with 20% buffer applied). It is therefore confirmed that less nitrogen (a deficit) will enter the catchment once the wastewater is dealt with via the new PTP, rather than the existing septic tank.

It has been determined that the septic tank has a phosphorous budget which demonstrates that there will be a phosphorous input into the Solent catchment area of 1.46 kilograms of total phosphorous per year (kg/TP/year, with 20% buffer applied). The package treatment plant solution, as set out above, gives a phosphorous budget which demonstrates that there will be a phosphorous input into the Solent catchment area of 0.08 kilograms of total phosphorous per year (kg/TN/year, with 20% buffer applied). It is therefore confirmed that less phosphorous (a deficit) will enter the catchment once the wastewater is dealt with via the new PTP, rather than the existing septic tank.

In conclusion, there is a net increase of 1 dwelling and therefore, it is likely that there will be an impact from nitrogen and phosphorous associated with the proposed development entering the Solent. The applicant proposes a package treatment plant which will result in a net reduction of the nutrients entering the catchment. Winchester City Council requires full details of this mitigation package addressing the additional input to be submitted to and approved in writing by the LPA.

The authority's appropriate assessment is that the application coupled with a mitigation package secured by way of a Grampian condition complies with this strategy and would result in nitrate neutral development. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above in this regard and in the case of this application being approved, a Grampian condition would be applied to the decision. This application however is recommended for refusal.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework (2023).

Sustainability

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

Recommendation

Application Refused for the following reason:

Reason

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.

Informative:

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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

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.