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## Appeal Decision

Site visit made on 30 April 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> May 2025

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### Appeal Ref: APP/N1730/W/24/3352142

**Land on the south-west side of Dunleys Hill, Odiham, Hook, Hampshire, RG29 1TJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Avant Homes against the decision of Hart District Council.
  - The application Ref is 23/02063/OUT.
  - The development proposed is the erection of up to 30 new dwellings with all matters reserved except access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is in outline format with details of the proposed access to be considered at this stage. All other details are reserved for subsequent consideration if outline permission is granted.
3. A formal, signed Unilateral Undertaking (UU) dated 23 December 2024 and made under section 106 of the Act has been submitted with the appeal. The UU covenants the owner/developer of the land to make, in general terms: a SAMM contribution; provision of public open space and Sustainable Urban Drainage System (SUDS); Accessible and Adaptable Dwellings; Affordable Housing; Self Build and Custom Plots; a Secondary Education Contribution; and Highway Works.

### Main Issues

4. The appeal proposal seeks to overcome the reasons why a previous appeal (ref. APP/N1730/W/22/3308614) for 33 residential units (in outline) was dismissed in August 2023. Within this context the main issues are:
  - Whether the proposal accords with the development strategy set out in the development plan;
  - The effect on the character and appearance of the area;
  - Whether the proposal would involve development on designated public open space;
  - Whether the development would be at risk from flooding or increase flood risk elsewhere;

- The effect on ecology and biodiversity; and
- The provision of a mix of housing and effect on infrastructure.

## Reasons

### *Background*

5. The appeal site comprises part of an open field which lies between the settlements of Odiham and North Warnborough. The land slopes generally from north to south and there are extensive views over a wide rural landscape though the gaps in the boundary hedges and trees along Western Lane and Dunleys Hill. It is proposed to form a new access to Western Lane and have a short cul-de-sac of residential development with the houses sited to the south of the access road. The appeal site also includes land to the north of the access and the red line follows a hap-hazard alignment which does not correspond to any feature currently on the field.

### *Accord with the development plan strategy*

6. The status of the appeal site within the development plan in recent years is complex. At the start of the current appeal process the Council advised that for the purposes of the appeal the development plan comprised the Hart Local Plan : Strategy and Sites 2032 (HLP32) (adopted in April 2020); the Odiham and North Warnborough Neighbourhood Plan 2014-2032 (ONWNP); and saved policies of the Hart District Local Plan (Replacement) 1996-2006 (HLP06). However, more recently the Neighbourhood Plan has been reviewed and following Examination and Referendum the Review Plan 2025 was made on the 24<sup>th</sup> April 2025. The Council confirms that the previous ONWLP has been formally superseded.
7. It is apparent that with the Spatial Strategy set out in the HLP32, Policy SS1 indicated that the 7,614 homes needed in the plan period would come from a number of sources as specified in parts (a) to (e ), including the delivery of homes through Neighbourhood Plans. The accompanying Table 1 indicates 111 homes identified in the ONWNP and the related Key Diagram denotes the allocation in the Neighbourhood Plan generally identified in a position between North Warnborough and Odiham.
8. The ONWNP (adopted in June 2017) Policy 2 'Housing Development Sites' identified seven sites allocated for residential development where site (v) is land at Dunleys Hill for approximately 30 dwellings and the accompanying plan identified a site which is not dissimilar to part of appeal site in position and extent. Policy 14 of the ONWNP also identifies land at Dunleys Hill as public open space with the accompanying plan excluding the parcels of land allocated for housing. A similar stance is taken in the designation of a Local Gap between the two settlements in Policy 3 where the associated map (on page 36) excludes the allocated housing sites. It is also apparent that the ONWNP envisaged that the remaining land in the open field between the two settlements would be public open space, including land for mitigation of the effects on the SPA from elsewhere. The ONWNP says that the allocated residential site would be expected to contribute to the maintenance and upkeep of the public open space.
9. At the time of the appeal mentioned in paragraph 4 above (August 2023), part of the appeal site and the indicative plan of the housing development then proposed was consistent with the allocated site but a part appeared to go beyond this as well

as other aspects of the development including a SUDS drainage facility. The inspector concluded that it had not been demonstrated that the development proposed could all be contained within the settlement boundary or whether alternative design solutions may be possible which could avoid harm in terms of coalescence. As such the inspector found conflict with stated policies in the HLP32 and the ONWNP.

10. It is apparent that in order to ensure that the Neighbourhood Plan was up to date and remained in force the Parish Council commenced a Review in early 2024. The Review Plan was examined by an independent Examiner who issued his report in December 2024. The Examiner identified that changes to Site 2v (the appeal site) lay at the heart of changes to the Review Plan. In short, because of concerns about the delivery of the open space and doubt over its ability to provide mitigation to avoid potential significant adverse effects on the Thames Basis Heaths SPA, and notwithstanding the representations from the present appellant, the Examiner recommended that the residential allocation of land for 30 houses at Dunleys Hill be deleted.
11. The newly made Review Plan version of the ONWNP therefore contains no residential allocation at the appeal site which is now classed as being in the countryside outside of the settlement boundary of Odiham. This outweighs the general reference to site allocations through a Neighbourhood Plan shown in the Key Diagram Fig.3 for Policy SS of the HLP32.
12. Therefore, the principle of residential development on part of the appeal site now conflicts with the provisions of the spatial plan for the Parish as set out in the ONWNP. As such the proposal conflicts with Policy NBE1 of the HLP32. The site also lies within the defined Local Gap which Policy 3 seeks to protect from any development which would lead to the visual coalescence of the two settlements. The practical effects of this will be considered in the next issue.

*The effect on the character and appearance of the area*

13. The housing development and fire station to the south of Western Lane generally form the edge of the established built-up area. There is a distinct change in character to the land to the north which has the landscape of an extensive open field. At the time of the site visit, views over the field were limited to short gaps in the boundary hedgerow and trees growing along the edge of the road, nevertheless some of this vegetation appeared to be deciduous and a greater extent of view could be expected in winter months. Similar conditions exist along Dunleys Hill (B3349) and there were views of the appeal site where the proposed development would be seen against the backdrop of vegetation on the skyline.
14. Although the illustrative plan shows that the proposed housing would be set back away from the corner junction of the two roads, it would be locally prominent in views from Western Lane and from the urban edge of North Warnborough along the main road. In physical and visual terms the built development proposed would be a substantial encroachment beyond the settlement edge into an area of open countryside and it would harm the simple countryside landscape characteristics of this area.
15. In terms of the Local Gap, the build development proposed would be a material encroachment into the present element of undeveloped space and would lead to the increased coalescence of the two presently distinct settlements.

16. In assessing this issue I have also had regard to the amended illustrative site layout plan submitted during the appeal (Drawing SL01). This plan does not reduce my concerns about the visual impact of development on the appeal site but it also shows very little space available for landscaping along the northern edge of the new access road. Although there is other land within the red line of the appeal site where landscaping provision could be conditioned, this general omission reinforces my concern about the likely stark impact of the development on the local landscape of the field.
17. Overall on this issue I find that the local landscape harm that the proposed housing development would cause means that it would conflict with Policy 3 of the Review ONWNP, and Policy NBE.2 of the HLP32.

*Effect on provision of public open space*

18. The Council's objection on this ground appears to stem from the designation in the ONWNP of the land between Odiham and North Warnborough as public open space, as a separate designation to the Local Gap. However, as a part of the examination of the Review Plan, the Examiner recommended that the public open space designation be deleted. It is therefore not part of the proposals in Policy 11 of the Review Plan and the Council's objection has been overtaken by events.

*Risk of flooding*

19. The Council's objection on this ground relates to the potential SUDS facility being sited on what was designated open space and the concern of the Local Lead Flood Authority (LLFA) about the siting of some houses in a surface water flood risk area and a general lack of evidence on infiltration rates to determine the suitability of this as part of a drainage strategy.
20. However, for the reasons set out above the public open space designation on adjoining land is no longer present. Moreover the Council accepts that if the principle of development is acceptable, appropriate conditions can deal with the disposal of drainage in a satisfactory manner. In the circumstances I agree that the disposal of surface water from the appeal development can be adequately addressed by conditions if the proposal was otherwise acceptable.

*The effect on ecology and biodiversity*

21. The Council now agrees that on the basis of the additional information submitted by the appellant and on the advice of the Council's Ecologist, there is no objection to the scheme on Biodiversity/Ecology grounds subject to the imposition of suitable conditions.

*The provision of a mix of housing and effect on infrastructure*

22. The formal Unilateral Undertaking set out in paragraph 2 above results from negotiations with the Council and is generally policy compliant in terms of the provision of affordable housing and the mitigation of the effect on local infrastructure and the provision of services. The Council says that the UU is deficient on the proposals for the delivery and maintenance of the adjacent land as public open space. Nevertheless this requirement of the previous neighbourhood plan has now been deleted.

23. The issue of open space aside, the Council has not made final comments on the completeness of the UU, however, I am satisfied that the formal Obligation could be revised if necessary to make the development acceptable in planning terms. With minor revision would meet the tests set out in paragraph 58 of the Framework as well as the Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

### *Planning balance*

24. Planning law requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The Review version of the Odiham and North Warnborough Neighbourhood Plan no longer allocates the appeal site for housing development. Moreover, the housing scheme proposed would involve a substantial encroachment into open countryside beyond the settlement and would harm the character of this rural landscape. The proposed housing site would also be a material encroachment into the defined Local Gap between the two settlements and add to their coalescence.
25. For these factors the proposal conflicts with the provisions of the development plan as I have identified above.
26. This conflict has to be balanced with other considerations. I recognise that the proposal would provide some 30 dwellings and help meet the government's objective of significantly boosting the supply of homes. I attach great weight to this housing provision along with the number of affordable homes set out in the proposal. As the appellant indicates, the proposal would also aid economic and social vitality in the area through employment opportunities during the construction phase and the introduction of new residents to the district.
27. I understand the appellant's frustration about the 'about turn' in the land allocation. However the Framework makes clear that the planning system is 'plan-led' and that development plans must be kept up to date. The Review Plan has followed the proper plan making process and been subject to consultation and local referendum. In these circumstances the guidance in paragraph 12 of the Framework is that where a proposal conflicts with an up-to-date plan, permission should not normally be granted.
28. I find that the benefits that the housing scheme would bring do not outweigh the conflict with current neighbourhood plan and the development plan when read as a whole. This indicates that the appeal should not be allowed.

### **Conclusion**

29. For the reasons given above I conclude that the appeal should be dismissed.

*David Murray*

INSPECTOR