



Appeal Decision

Hearing held on 9 June 2026

Site visit made on 10 June 2026

by AJ Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27TH July 2026

Appeal Ref: 6004772

Land West of Old Street, Stubbington, Fareham PO14 3HW

- 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 Bargate Homes Ltd against the decision of Fareham Borough Council.
 - The application Ref is P/24/1553/OA.
 - The development proposed is described as 'outline planning application proposing the development of land for up to 62 dwellings together with associated works, landscaping, parking, infrastructure, sustainable drainage system (SUDs), publicly accessible open space, natural greenspace provision and access.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is for outline planning permission with all matters except access reserved for later consideration. Illustrative drawings have been submitted, but these are taken into account in the decision on the indicative basis intended.
3. Amended drawings, that were not the basis for the Council's original decision, have been submitted with this appeal. The changes include the deletion of one small building and the movement of two other built forms. These alterations are minor, and in any event, these plans are illustrative only, and details of layout are to be approved at the reserved matters stage.
4. The scheme determined by the Council is not therefore fundamentally changed by the amended drawings. Moreover, the Council and interested parties had opportunity to comment on this matter in this appeal. Given these factors, there is no procedural unfairness in considering these drawings in this decision.
5. It was clarified at the hearing that the emerging plan referred to in evidence is at the very early stages of preparation. Consequently, it attracts very little weight.

Background and Main Issues

6. A legal agreement submitted in this appeal process seeks to address some of the Council's reasons for refusing planning permission, and I will deal with this later in the decision.

7. The proposal is said to deliver some self-build and Custom housebuilding units, and this is not a matter of dispute between the main parties. However, I raised questions in this appeal process whether the conditions advanced on this matter would provide certainty of this outcome. The parties have submitted written responses to my queries, following the hearing, and their original position on this matter appears largely unchanged. However, I continue to have concerns regarding the efficacy of this approach, and this is elevated to a main issue accordingly.
8. Having regard to the above factors, the main issues are:
 - The effect of the proposal on the character and appearance of valued landscape in the area; and
 - Whether the proposal would provide self-build and custom housebuilding units as defined in the Self-build and Custom Housebuilding Act 2015.

Reasons

Landscape

9. The appeal site is two parcels of rough grazing bisected by a gated, hedge lined track at the built-up edge of Stubbington and Hill Head. The existing line of residential development, in Knights Bank Road, curves, around the southern extent of the appeal site. However, even with this encroachment, Old Street provides a strong visual boundary between the urban edge of the settlements and the relatively undeveloped neighbouring landscape.
10. The site is in the lower Meon Valley character area of the Meon Valley Area of Special Landscape Quality (ASLQ). This lower part of the valley is characterised by marsh and wetlands at the valley floor, and this leads to open floodplain pasture, and onto shallow valley walls. The valley is flanked by swathes of landscape on either side that broadly defines the extent of open countryside within the corridor between the urban edges of Stubbington and Hill Head.
11. The Fareham Landscape Assessment 2017 (LSA) subdivides this character area, and the appeal site appears to form part of the mosaic of open farmland and smaller, enclosed pastures bordering the valley, that are described as helping buffer the intrusion of adjacent urban development and fringe farmland to the east of Titchfield Haven. The appellant's Landscape appeal statement highlights the Council's Technical Review of Areas of Special Landscape Quality and Strategic Gaps which supported the preparation of the current Fareham Local Plan. This seems to be the most recent local landscape review and generally endorses the conclusions of the LSA 2017.
12. The pastureland, of which the appeal site is a part, is described by the appellant as lacking the landscape quality of the flood plain and valley floor. While this may be so, the appeal site hosts few structures and is bounded by mature hedges. The landform is relatively flat, such that it appears to be a plateau, but the slight rise, from the gentle valley slope towards the higher ground at Old Street, is discernible. Therefore, while the site is at the outer edge of the ASLQ, it has some of the positive landscape characteristics described above and appears part of the distinctly rural setting of Stubbington and Hill Head.

Moreover, although it is largely screened by mature hedges, the accesses to the fields allow glimpsed views across the valley to the sea such that the visual amenity of the wider landscape is appreciable from these limited local vantage points.

13. It is currently used for grazing, and although the appellant's landscape evidence asserts that this is a typical fringe use, this appears the extent of equestrian features at the site, and I saw little evidence of fringe uses, as defined in the Council's LSA, in this immediate setting. With the features outlined, rather than a transitional zone, the appeal site appears part of a belt of unspoilt farmland. And while the appellant's landscape consultant finds the boundary of the ASQL to be arbitrary, at this edge of the valued landscape, I saw a definite distinction between the urban area and the Countryside, and the appeal site is clearly part of the latter.
14. As already referenced, development in Knights Bank Road encroaches on the valley slope in this vicinity, and Stubbington is also nearby. However, the robust green boundary, which affords only filtered views of the two fields from the street, ensures that even with this close proximity, neighbouring urban areas have very little visual influence on the landscape character of the appeal site.
15. In terms of other existing development effects on this part of the ASQL, the road and domestic activities at this edge of settlement location diminishes the sense of remoteness. However, at the west boundary of the appeal site, where the wider valley landscape can be more fully appreciated, a semblance of tranquillity remains. And although such paddocks may be commonplace across the borough, I saw that these particular fields are a significant part of the linear farmland that provides a buffer between existing development of the settlement and the sensitive landscape features of the valley slopes and beyond.
16. It is suggested that once an existing band of native trees on the western boundary of the site matures, the two fields will be largely enclosed, and this will make a clear marker between the plateau and valley character areas. However, although the maturing of vegetation may interrupt the long views towards the sea, nonetheless, albeit enclosed by green features the appeal site will remain pastureland. Therefore, even with this visual change overtime, these fields will continue to contribute in this regard to the mosaic farmland and pasture that positively characterises this part of the landscape.
17. Another Inspector¹ considering a different proposal in this locale found that the landscape type evident at that appeal site was an integral part of the Lower Meon Valley landscape. (Appeal decision 2019) The scheme subject of this appeal, deals with a much smaller site than that previous other proposal. Be this as it may, with the features and factors set out above, the appeal site before me also appears an integral part of this landscape resource, and contributes positively to the local visual environment, as well as the setting of this urban area in my view.
18. The quantum of development proposed in this case would be up to 62 dwellings and the appellant expresses the intent to optimise the site. Even if a lower

¹ Appeal Ref: APP/A1720/W/18/3200409

number of units than this was approved as a reserved matter, nevertheless this would be a major development. Under this scheme, the small-scale pastureland mosaic that currently characterises this immediate area would be substantially replaced with built forms and estate roads.

19. Evidence states that, subject to detail matters being approved, around 2.5 ha of the site would comprise natural green or open space and this is a matter that could be conditioned. However, the amount of development proposed suggests that at least some of that green space would comprise gardens. In any event, even with a good proportion of open space and areas set aside for layered planting, the overriding character of the appeal site would be residential.
20. Additional trees at the boundary could go some way to softening the substantial visual change at the site over time. However, though this mitigation may be certain by condition, the height and concentration of new built forms and the access roads would be clearly evident, and in turn the considerable change in character resulting over the lifetime of the development would be apparent in Old Street and from neighbouring properties. Not only would the current undeveloped quality of the site be considerably eroded, but the relative tranquillity of the site would be diminished by the domestic activities that would ensue as a result of the new residential development.
21. As already stated, the detailed design is a matter to be addressed at a later stage, but this concentration of development, close to existing edge of settlement, would appear distinctly suburban, regardless of the materials used or the final layout of the development. The scheme would not be sensitive to the prevailing landscape character in this regard. In turn the intrinsic character of this corner of the countryside would be substantially altered.
22. There is an obligation that safeguards the land west of the appeal site for wintering birds, secured by legal agreement relating to another development. Also, the built form proposed in this case, unlike a much larger previous proposal, dismissed in the 2019 appeal, could be largely contained on the plateau, above the more definitive valley slope. Be this as it may, if this appeal is allowed, there would be a significant intrusion into undeveloped land. In turn the envelope of the settlement would be expanded, and the existing rural setting in this location would be significantly eroded under this scheme.
23. The resultant visual impact on this landscape resource and the erosion of the positive urban area setting would be limited given the existing site circumstances and the scale of the development proposed. When viewing the development from the west, the changes in the site would be seen to some extent against the backdrop of existing residential development, particularly from distant vantage points. But the long term significant adverse visual effect on this part of the valued landscape would be observable in the immediate vicinity of the site.
24. A significant portion of the existing rural belt, that provides a buffer between the settlement edge and the valley floor, would be covered by the development. While there could be some green boundary features retained and enhanced along Old Street, the new accesses would denote the extent of development, and the concentration of built form would likely protrude above this boundary

treatment. Even if I accept that the development would be compact, as asserted in the Appellant's Landscape and Visual Impact Assessment, (LVIA) the existing clear division between the urban edge and countryside would be considerably diluted by this significant breach of development into this existing farmland. The proposal would fail to be sensitive to the setting of the settlement in this regard.

25. The conclusion of the LVIA indicates that development would have a minor adverse effect on the landscape at most, but this is at odds with table 9.2 of that assessment which states that the development, with regards site landscape receptors and site landscape character, would have a moderate adverse effect over all periods assessed. The LVIA methodology also clarifies that effects of moderate significance are deemed 'significant'. As outlined, the proposed enhanced landscaping around the boundary could soften the effect of this change in character, but the replacement of countryside with a housing estate would appear a significant visual intrusion into this value landscape permanently.
26. No compelling evidence is advance that leads me to dispute the LVIA findings that visual harm would be localised and would affect only a small part of the AQSL. But even if I accept the appellant's judgement on this, the evidence still points to the development having a moderate adverse effect on the intrinsic quality of the countryside and the landscape character, and this visual harm would be long term and significant. Moreover, for the reasons set out, I am not persuaded that the mitigation proposed would considerably reduce the visual harms that would occur in this case.
27. I therefore find that the proposal would have a significant harmful visual effect on the character and appearance of valued landscape in the area. In this regard the proposal would conflict with Policies DS1, DS3, HP1 and HP4 of the Fareham Local Plan (Local Plan). These Policies collectively, amongst other matters, seek to protect landscapes and require recognition of the intrinsic character and beauty of the countryside.

Self and Custom Build Homes

28. The mix of dwelling types would include self-build and custom housebuilding units. This would be in keeping with Policy HP9 of the Local Plan which requires on sites of 40 dwellings or more, 10% of overall dwellings shall be provided through plots to address local self or custom build needs.
29. The main parties agree that this local policy requirement would be secured by condition. However, this approach is at odds with the supporting text of Policy HP9 which states that the provision of self and custom build plots shall be secured through an appropriate legal undertaking.
30. Several conditions are proposed in this case. These conditions could in my view give certainty that a portion of the site would be set aside for this housing type, that the plots would be serviced and have suitable access, that a design code would be approved and that efforts would be made to market the plots. All these matters appear to address the requirements of the local policy or advice set out in the Self and Custom Build Housing supplementary planning document (SPD), and therefore necessary to achieve those local policy aims.

31. Also, these are matters that could be controlled by the appellant and in my view could be enforced by the Council. Subject to amended wording to ensure precision, the conditions that address the matters above would satisfy the national tests on this matter.
32. Addressing the certainty of securing this type of housing, the Self-build and Custom Housebuilding Act 2015 (as amended) (2015 Act) provides a legal definition of self-build and custom housebuilding. Planning Practice Guidance (PPG) clarifies, in considering whether a home is self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. PPG goes on to state that off-plan, homes purchased at the plan stage prior to construction and without input into design and layout from the buyer, are not considered to meet the definition of self-build or custom housing.
33. The 2015 Act aims to deliver a very specific type of housing. And while a period of occupancy is not specified in statute or guidance, nonetheless the legal definition for this housing type indicates restrictions on occupancy. Proposed condition 33 may reflect the wording of the statutory definition, but conditions requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests for planning conditions, in terms of enforceability.
34. The appellant highlights that the 2015 Act sits alongside Community Infrastructure Levy (CIL) Regulations. However, although CIL exemptions, granted for a particular development, may be a method to determine whether it is for self-build or custom house building, I am not persuaded that this gives certainty that the development would be delivered in the manner intended or that this provides a mechanism of enforcement if it is not. Moreover, relying on the demolition of units if the required outcome is not achieved seems unnecessarily punitive and an unsatisfactory approach to enforcement, particularly when a considerably less drastic solution is opened to the parties; that is, ensuring the required outcome by means of a planning obligation. Indeed, such a solution would be in keeping with the approach advised in the supporting text of the local policy.
35. I am referred to a relatively recent Secretary of State appeal decision for a large housing development in this borough. A similar set of conditions related to self-build homes were attached to that permission, but this was not supported by obligations in a legal agreement in respect of securing self-build and custom housebuilding units.
36. Although I have the appeal decision and accompanying report before me, I do not have the full details about that case. It is necessary for me to deal with this appeal on its individual merits. Notwithstanding the main parties' responses on the suitability of the conditions proposed in relation to self-build, for the reasons set out above, I remain unpersuaded that condition 33, in particular, would satisfy the test of enforceability.
37. It is asserted that PPG indicates preference for planning conditions rather than legal agreements. However, in advising on circumstances where planning conditions should not be used, PPG states any proposed condition that fails to meet one of the 6 tests should not be used.

38. In light of the above I find no certainty that this proposal would provide self-build and custom housebuilding units as defined in the Self-build and Custom Housebuilding Act 2015. In this regard the proposal would conflict with Policy HP9 of the Local Plan.

Planning Obligation Matters

39. Schedule 1 of the signed Unilateral Undertaking (UU) obligates those with interest in the appeal site to carry out highway improvements. These include pedestrian crossing and access and footpath connections along Old Street and are necessary to ensure safe highway conditions for existing and future users. Also, it obligates those parties to make financial contributions to improved cycle and pedestrian access and public transport options in the wider area, necessary to ensure compliance with local transport policy.
40. In order to be compliant with Policy HP5 of the Local Plan, 40% of the total number of residential units would have to be affordable homes. This equates to 24 units in this case, and the remaining 0.8 unit necessary to meet the 40% requirement would be a commuted sum contributing to the provision of this type of housing outside the site. Schedule two of the UU obligates those with an interest in the land to deliver these requirements.
41. The above works, housing type requirements and associated financial contributions relate fairly and reasonably in scale and kind to the development. They also make the development acceptable in these planning terms.
42. The appeal site is in the zone of influence (Zol) of the Solent and New Forest Protected habitats. The Solent Special Protection Area (SPA), amongst other things, support migratory birds. This nationally and internationally important habitat has been shown to be in unfavourable condition due mainly to wastewater management practices and recreational disturbance. Any additional residential unit in the Zol would have a likely significant adverse effect on the integrity of this habitat either alone or in combination with other projects.
43. Accordingly relevant Councils have agreed the Solent Recreation Strategy consultation with Natural England. This sets out mitigation including rangers, improved communication and creation of alternative green spaces. Financial contributions to help fund these mitigation measures is necessary from any development that results in a net gain of residential units in the Zol.
44. The New Forest Special Areas of Conservation and SPAs are also vulnerable to recreational disturbance and in unfavourable conditions. An interim Mitigation Solution has been adopted with measures similar to that of the Solent's strategy. This mitigation is also to be funded by financial contributions where development increases residential units in the affected areas. Without this mitigation, secured by legal agreement, proposals resulting in a net gain of dwellings would have a significant adverse effect on the integrity of these habitats when considered alone or in combination with other development.
45. Schedule 3 of the UU covers the obligations in respect of these mitigation strategies. Again, these are related to the development in scale and kind and are necessary to make the development acceptable in terms of this matter.

46. Schedule 4 and 5 of the UU deal with open space and health care. Securing these obligations would ensure policy compliance on these issues and would make the development acceptable in this regard. The UU is a legal deed pursuant with S106 of the Town and Country Planning Act 1990 and appears properly executed.
47. Returning to impacts on SPAs and SACs, evidence has shown that wastewater management has harmed these protected habitats. Increase nutrient through wastewater from a variety of sources, including residential development would likely have a significant adverse impact on the integrity of these habitats. Accordingly, any new residential development in the Zol would need to be nutrient neutral to be acceptable in this planning matter.
48. The nutrient budget calculation in this case indicates a significant deficit and the appellant is not proposing to address this on site. In order to mitigate this harm, the appellant would secure nutrient credits from Council approved mitigation schemes. This approach appears to have support from Natural England and allows development to go ahead without further harm from this source to the habitats.
49. To this end the appellant has submitted a letter confirming that there is some capacity at the Solent Partnership mitigation scheme. Related to this, a credit reservation letter, indicating that the 39.73 nitrogen credits necessary to ensure that the development would be nutrient neutral is secured. The letter indicates that the reservation is only for 12 months, but nevertheless the evidence points to there being sufficient capacity in the Council approved schemes going forward that could address this matter.
50. However, as this necessary mitigation would be outside the appeal site, it would need to be secured by a planning obligation, and yet this is not currently included in the UU. The main parties have suggested that a legal agreement for this mitigation could be required by condition. Although PPG cautions against such conditions it clarifies, in exceptional circumstances, a negatively worded condition, requiring a planning obligation or other agreement to be entered into before certain development can commence, may be appropriate.
51. In this case, if nutrient neutrality is not secured, likely significant adverse impacts on the integrity of the habitat, when consider alone or in combination with other projects, would occur. The development would be at odds with the Conservation of Habitats and Species Regulations 2017 in this regard, and this would place the proposal at serious risk. In my view, there is exceptional circumstances in this case that justify a condition of this nature.
52. In light of the above I find that the proposal would provide appropriate highways improvements, open space and contributions to health provision consistent with local policies on these matters. Adequate provision of affordable housing units would also be delivered in accordance with local affordable housing policy. Furthermore, all necessary mitigation could be secured such that the development would not have an unacceptable adverse impact on the integrity of protected habitats. In these regards the proposal would accord with Policies HP5, TIN1, TIN4, NE3 and N10 of the Local Plan relevant to these matters.

Other Matters and Planning Balance

53. The Council's reasons for refusing permission included securing a Travel Plan and maintenance of the onsite drainage system by legal agreement. However, I am content that conditions ensuring these planning outcomes would be reasonable and enforceable.
54. Great Crabthorn is an 18th Century redbrick house with mansard roof, a short distance from the appeal site. This grade II listed dwelling forms part of a group of properties which include Crabthorn Farm Cottages and the Farmhouse. The designated heritage asset has been much altered, and its setting has somewhat been enveloped by the suburban development that now comprise the edge of this settlement. However, the historic interest and significance of this designated heritage asset is appreciable from Old Street, and the retained countryside at this settlement edge is important to this appreciation.
55. Although the proposed development would encroach into the countryside, this is some distance to the south of the listed building. Moreover, the proposed open space would provide a buffer such that the existing setting of the listed building and how the asset is currently experienced would be preserved under this scheme.
56. Interested parties raise concerns including about highways safety, flood risk and impact on neighbours living conditions, with regard outlook, privacy and noise. However, the appellant's evidence indicates that the development would not lead to unsatisfactory living conditions. Nor would it impact harmfully on existing highway safety conditions, or increase flood risk in this area, subject to the conditions or legal agreements which address these matters. This position on these matters is supported by the Council. Furthermore, no compelling information is advanced that would lead me to challenge this position. I am satisfied subject to conditions and legal obligations already outlined; the development would be acceptable in terms of these planning matters.
57. Conflict with local strategic gap policy has also been raised. However, the Inspector, in the 2019 appeal decision, concluded that a proposal significantly larger than this would not have a harmful effect on the Meon Gap. That other appeal decision was made in the context of the previous local plan. However, current local policies on this matter appear very similar. Indeed, the circumstances that prevailed in that case appear relatively unchanged with regards this issue. Moreover, in reviewing the evidence specific to this proposal, I find nothing that would lead me to a different conclusion to that of my colleague.

Balances

58. At the time that the Council made its original decision the housing land supply (HLS) in the borough stood at 3.8 years. There is agreement between the main parties of this figure, and this is stated equate to a shortfall of 1,175 units. Following the hearing, the Council has updated the HLS figures. The latest published position indicates the HLS has further reduced to 2.99 years, this is a shortfall of 2068 homes. The most recently published housing delivery test also shows a very poor performance over that assessment period.

59. The appellant has highlighted other appeal decisions that date back to 2014 which illustrate that the lack of adequate housing supply in the borough has been an issue for some considerable time. Moreover, despite being in the early period of the current development plan there is already a substantial shortfall in housing supply. The evidence points to this being a longstanding and chronic problem in the borough, and the shortfall is presently considerable. Given these circumstances, the provisions in paragraph 11 of the National Planning Policy Framework (the Framework) are engaged.

Most Relevant Policies

60. I am directed to Court judgments which guide the weight local policies attract in such instances. Addressing the matter, Policy HP1 seeks residential development in urban areas, but it also provides criteria for the consideration of proposals at locations outside these areas. This spatial strategy policy appears flexible in this regard.
61. Policy HP4 (referenced in Policy HP1) permits development outside urban areas if the Council is unable to demonstrate the required HLS. There is therefore flexibility in the local spatial strategy.
62. This Policy outlines criteria which include, amongst other matters, seeking sensitive designs to reflect landscape character and recognition of the intrinsic character of the countryside, against which proposals outside the urban area boundary can be considered. This criterion does not seem overly restrictive, and I find no conflict with aims of the Framework on these matters. Given the level of consistency with the Framework, Policy HP1 and HP4 attract considerable weight.
63. Policy DS1 deals with development in the countryside. Consistent with national guidance, proposals in such locations should recognise the intrinsic character and beauty of the countryside. And like the Framework, this Policy also seeks to protect and enhance landscape.
64. Linked with this local policy aim, Policy DS3 states that development shall only be permitted in ASLQ where the landscape will be protected and enhanced. This implies a high bar for development and the main parties' evidence seek to clarify how this should be applied and the weight that this policy should hold in this case given the shortfall in housing supply in the borough.
65. Regarding this point, supporting text in the Local Plan outlines the factors that justify this policy approach to development in ASLQ. Generally consistent with the Framework, the quality of this valued landscape is identified in this development plan, which was adopted only a few years ago. Moreover, and of relevance in this case, Policy DS3 requires major proposals should include a comprehensive landscape mitigation and enhancement scheme to ensure that development integrates with the landscape. It seems therefore that under this Policy significant development could be permissible.
66. The appellant asserts that in circumstances where Policy HP4 is triggered, other policies, such as those that protect the countryside and landscape, should be given limited weight. In support of this, I am directed to an appeal decision for

land at Newgate Lane². However, that other appeal was decided in the context of the previous development plan. While, the current local policies may share similarities with policies of that old plan, the planning context for this appeal is nonetheless different to that which applied to the Newgate Lane appeal. Moreover, while the Council found harm to character in that case and that site was in the strategic gap, unlike this appeal site, it is not in the ASLQ. My colleague therefore did not have to grapple with a matter which is at issue in this case.

67. In terms of the weight that should be applied to Policy DS3 once Policy HP4 is triggered, there is no dispute that both policies are relevant in this appeal. The text related to landscape differs somewhat in Policy HP4 and Policy DS3, but both policies provide some protection and seek a sensitive design in terms of landscape character, and this seems largely in keeping with the aims of the Framework. However, while Policy HP4 addresses landscape character, unlike Policy DS3, this is without explicit reference to ASLQ.
68. The supporting text of Policy HP4 also clarifies that where there is a less than five-year HLS, the test for a proposal in the strategic gap is different from that of Policy DS2 [which seeks to protect the strategic gap]. The supporting text highlights that open countryside contains valued landscape that are of special quality. However, unlike Policy DS2, Policy HP4 does not state that the weight of Policy DS3 is lessened once it is invoked.
69. In any event, Policy DS3 does not preclude development in ASLQ, and is not overly restrictive in this regard. Generally consistent with the aims of the Framework on this matter, Policy DS3 attracts considerable weight in my view.
70. Policies HP5 and HP9 require provision of affordable housing and self and custom housebuilding units in developments that met a certain threshold. Rather than spatial strategy these policies seek a type of housing in demand in the borough. Moreover, they are compliant with the Framework, which states amongst other matters, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
71. Policies NE3, NE10, TIN1 and TIN4 also appear in keeping with relevant sections of the Framework on these matters. These local policies hold full weight for the reasons stated.

Benefits

72. Turning to the benefits of this proposal, it has the potential for 62 new residential units and conditions could ensure that these are delivered relatively quickly. This would be a modest contribution to the supply of housing in the area. Nevertheless, this would be a significant benefit and given the critical situation regarding the Council's HLS this benefit attracts considerable weight.
73. Of the new dwellings at least 10% of the units would be affordable. The appellant's evidence shows that there is a relatively poor rate of affordable housing delivery in the borough over this plan period. However, this is the early period of the current development plan. That aside, evidence underpinning the

² Appeal Ref: APP/A1720/W/21/3269030

current development plan indicates a poor affordability ratio in the area for some time, and a high local need for new affordable housing. Moreover, 173 new affordable units per annum is required during this plan period, and while this proposal would make a modest contribution to this, it would be significant. Given the weak performance against the Council's own targets on delivering this type of dwelling to date, I find that this benefit attracts substantial weight.

74. As already set out, provision would be made for open space, which would be accessible to the public. The site currently has no public access and therefore this would be a significant environmental and social benefit.
75. The long-term protection of improved soft landscaping would be a benefit, but this is tempered by the visual harm to the character of the locally valued landscape, and the weight that this benefit attracts is moderated by this factor. The proposal would deliver a biodiversity net gain. This may be a mandatory requirement, but it would be a significant environmental benefit, nonetheless.
76. There would be some economic benefits resulting from the construction phase and future occupants would contribute to the vibrancy and vitality of the area.
77. Although the development is in the countryside it is also close to the local services of the sizeable settlement of Stubbington. There are also some public transport options that would be available to future occupants. I therefore agree with the appellant, that the site is in a sustainable location in these regards. This factor weighs very much in favour of this proposal.

Disbenefits

78. The harm to the landscape would be significant. However, as stated, the development would be of a modest scale and the visual effects and harm to the character of this section of the locally valued landscape would be limited and localised. Therefore, the adverse visual effect on the wider ASLQ would be towards the lower end, in terms of the range of harm. In turn, the conflict with the aims of local and national landscape policy would also be limited.
79. Moreover, in applying Local Policy DS3, I do not accept the Council's argument that the ASLQ should be considered in the same terms as National Landscapes. However, I note that even with the enhanced statutory protection in respect of National Landscapes, the Courts have ruled a finding that residual harm to landscapes would exist does not automatically mean planning permission should be refused. There may be justified benefits and mitigation measures which would outweigh the harmful effects.
80. As stated, there is some flexibility in local Policies HP4 and DS3 in terms of managing development in valued landscape, but I have found conflict with these Policies in this case. However, as the visual harm would be limited and the conflict with relevant local policies would be slight, I find that these small harms would be outweighed by the substantial benefits of this scheme, as identified above.
81. There would also be conflict with local policy that addresses a local demand for a particular housing type, self and custom build units. The scale of this development means that if I allowed the appeal, there would be a small shortfall

in the required quantum of this type of units in this case. However, as already addressed, this is not a spatial matter in my view, and this conflict with local policy affects the supply of a housing type that has been found to be in demand in this borough, and this was through examination of the current development plan that was only adopted a few years ago.

82. For the reasons set out, a condition restricting occupancy would unlikely be enforceable; it would not meet the national tests. In my experience it is commonly understood that this type of housing is generally secured by legal agreement, indeed this is reflected in the supporting text of the local policy.
83. It seems to me that this locally needed housing type could easily be secured in this case. However, despite me raising my concerns at all stages of this appeal, the appellant has persisted with a course of action which in my view fails to provide certainty that this type of housing would be delivered if I was to allow this appeal.
84. The consequences of me allowing this proposal in these circumstances, when this policy conflict could be resolved, runs the risk of seriously undermining the local strategy for securing this type of housing when other proposals come forward in this borough in the remaining plan period. Accepting this policy conflict at this early stage in this plan period could have far reaching consequences and the harm could therefore be substantial.
85. I am directed to several other appeal and Council decisions which the main parties consider relevant to the main issues in this case and the matter of planning balance. Some of those appeals relate to development outside the borough and this limits their relevance. Other decisions on development in this administrative area, some of which made by the Council and comprise major development in the Meon ASLQ and outside settlement boundaries, are some distance from the appeal site such that the visual context of those other developments is distinctly different.
86. This aside the similarities between this scheme and those other developments, and the relevance regarding the approach to planning balances in those other decisions are acknowledged. However, focusing on the schemes in the borough and therefore those which share a similar local planning policy context to this proposal, many of those decisions were made on the basis of a previous development plan. Therefore, unlike this appeal, compliance with Policy HP9 did not appear to be a factor.
87. With regards more recent cases, I have already addressed the Secretary of State's decisions. But dealing with Council decisions, most of these relate to development resulting in less than 40 new dwellings, such that even if they were decided in the context of the current development plan, the requirements of Policy HP9 did not apply.
88. Accordingly, the distinguishing factor between all those other cases and this proposal appears to be, that in this case there is conflict with local self-build policy. Regardless of the degree of other similarities and the main parties' views on how planning balances should be applied, this remains a clear differentiating factor, and the proposal before me is distinctly different from those other

schemes in respect of this planning matter. Those other decisions have not altered my findings for this reason.

89. In light of the above, even though I agree with the Council's officer that the visual harm and conflict with local landscape policy is outweighed by the benefits identified above, the adverse impact, with regards the conflict with self-build policy and the substantial harm that would likely result in respect of the supply of this type of home in the borough if this appeal was to be allowed, would significantly and demonstrably outweigh the substantial social, economic and environmental benefits, when assessed against the policies of the Framework taken as a whole.

Conclusion

90. Planning law requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. I find conflict with the development plan when read as a whole and material considerations, including the Framework, do not indicate a decision otherwise in this case. Therefore, the appeal should be dismissed.

AJ Sutton

INSPECTOR

Richborough

Attendees

For the Appellant:

- J Mulliner - Managing Director at tor&co
- L Simes - Operating Board Director Landscape Planning at fabrik
- L Vallins - Head of Planning at Bargate
- S Jenkins - Partner at i-Transport LLP

For the Council:

- S Jupp – Leading the appeal on behalf of the Council
- I Dudley - Landscape Consultant for the Council

Interested Parties:

- Councillor P Hayre
- P Charwood – Hillhead Residents Association

Richborough

Documents

Before the Hearing

Appellant:

APP1: email clarification regarding amended plans

APP2: Engrossed version of Unilateral Undertaking

APP3: Email query regarding the Council's Reason for Refusal and Policy HP4

APP4: Appellant's Appeal Decision Summary

APP5: Signed Unilateral Undertaking

Council:

LPA1: Email clarification regards Council's Reasons for Refusal and Policy HP4

LPA2: S106 Compliance Statement

LPA3: Bird Aware Solent Revised Strategy 2024

LPA4: Fareham Council New Forest SPA Interim Mitigation Solution 2021

LPA5: Fareham Borough Council – Monitoring Report 2024/2025

LPA6: Fareham Borough Council – Calculation of 5 year housing land supply June 2025

LPA7: Summary of Appeal Decisions Cited.

Following the Hearing

Appellant:

APP6: Official Copy of Land Registry and Title

APP7: Credit Reservation, Nutrient Neutrality Mitigation Solent, Partnership Confirmation of Mitigation Capacity, Nutrient Balancing Assessment V 4, Completed Bird Unilateral Undertaking 2021, Wild Capital Bargate Letter – Credits at Wild Stubbington Habitat Bank - July 2026.

APP8: Appeal Ref APP/A1720/W/24/3347627

APP9: Agreement of Condition 5 and proposed wording for noise condition related to a pump.

APP10: Response to Inspector's concerns about proposed self and custom build housing conditions.

Council:

LPA8: Response to appellant's comments to Inspector's concerns about proposed self and custom build housing conditions

LPA9: Copy of Policy DS2 and Self and Custom Build Housing supplementary planning document

LPA10: Five-Year Housing Land Supply Report 2026 and Council's Five-Year Housing Land Supply Position Update July 2026.

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