

Robert Tutton Town Planning Consultants Ltd
Mr Robert Tutton
23 Romsey Avenue
Fareham
Hampshire
PO16 9TR

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

GRANT OF PLANNING PERMISSION

Case No: 14/00707/FUL
W Ref No: W23759
Grid Ref: 452520
111673

Change of use of agricultural land to residential garden

The Barn, Harmsworth Farm, Botley Road, Curbridge, Southampton, Hampshire

In pursuance of its powers under the above mentioned Act, the Council, as the Local Planning Authority hereby GRANT permission for the above development(s) in accordance with the plans and particulars submitted with your application received on 21 March 2014 and subject to compliance with the following conditions:-

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).



2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes E of Part 1 of the Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

3 The land shall not be paved (apart from the laying of a domestic patio / seating area) or used for the parking of vehicles or caravans, for motorsports, for noisy sports, for open storage or for the stationing of play or sports equipment, sheds, gazebos or similar structures.

Reason: In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

4 No fencing exceeding 1m in height shall be erected within the site or upon the site's boundaries.

Reason: To protect the amenities of the locality and to maintain high quality environment.

5 The land subject to this permission as highlighted in red on the submitted Location Plan shall be used in connection with the domestic use of The Barn, Harmsworth Farm, Botley Road, Curbridge.

Reason: In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

Informatives:

This permission is granted for the following reasons:
 On balance the development is considered to be in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations (including the harm that the development may cause) do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

In accordance with paragraphs 186 and 187 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 applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

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

Winchester District Local Plan Review 2006: DP3, DP4, CE5, CE8,
 Winchester District Local Plan Part 1 JCS 2013: DS1, MTRA4

The existing buildings on the site and existing play equipment are not subject to conditions 3 and 4 because they were erected at the site before the change of use from agricultural land to residential land was granted consent.

Simon Finch BSc (Hons) Lond, DipTP, MSc, MRTP
 Head of Planning Management
 20 June 2014

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

Winchester
City Council
Planning
Department
Development
Control

Delegated Decision

TEAM MANAGER
SIGN OFF SHEET

Case No:	14/00707/FUL	Valid Date	31 March 2014
W No:	23759	Recommendation Date	16 June 2014
Case Officer:	Mr Nick Fisher	8 Week Date	26 May 2014
Recommendation:	Permit	Decision:	Delegated Decision
Overall Expiry Date:	26 May 2014	CIL Liable?	No

Proposal:	Change of use of agricultural land to residential garden
Site:	The Barn Harmsworth Farm Botley Road Curbridge Southampton

Transport Y/N	Open Space Y/N	Legal Agreement	S.O.S	Objections	EIA Development	Monitoring Code	Previously Developed Land
N	N	N	N	Y	N	N	N

DELEGATED ITEM SIGN OFF	
Approve Subject to the condition(s) listed	
Signed & Date:	
Nicholas Parker Team Leader South 20 th June 2014	

AMENDED PLANS DATE:- None

Site Factors:

River Bank Top
Civil Aviation
Radon Gas Levels
Site of Special Scientific Importance

Site Description

- The site is located in the countryside outside of a defined settlement boundary. However the site is enclosed by existing trees belts/vegetation and adjoining land that is fenced off.
- To the south there are several residential properties including the applicant's property. There are also buildings used for commercial purposes and a car parking area.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

- Access to the field is taken through the car park.
- The land subject to this application is used for the grazing of animals (horses, rams / sheep). Several single storey outbuildings are located on the site. These buildings appear to be used in connection with the keeping with the animals on the site. There is a large piece of children's play equipment within the site.
 - The side boundary (western) and rear boundary (northern) are both heavily treed and enclose the site from the public realm. There is a footpath to the west of the site set at a lower level and runs alongside the Hamble Estuary. The existing trees and standard size fence panelling prevent views into the site from the footpath.
 - To the east (side) of the site there are pony paddocks (sub-divided by fencing) and an area of land that is laid to grass with children goal posts located within it.

Relevant Planning History

- 05/00894/ful - Change of use of land adjoining Hambleside from paddock to residential garden. Hambleside Harmsworth Farm Botely Road Curbridge. (This permission is of particular relevance because it permitted a change of use to garden land of a substantial piece of land that is in close proximity to the site).
- 00/02659/FUL - Conversion of barn to provide 1 no: dwelling. PER 17th May 2001.
- 02/00384/FUL - Replacement single storey 2 bedroom dwelling and detached double car port. PER 26th March 2002.
- 75/00854/OLD - Erection of agricultural dwelling. PER 23rd June 1975.
- 75/00855/OLD - Erection of extension to existing barns. PER 15th July 1975.
- 75/00856/OLD - Erection of agricultural bungalow. PER 27th August 1975.
- 81/00173/OLD - Removal of agricultural occupancy condition. REF 3rd April 1981.
- 83/00162/OLD - Erection of replacement dwelling and garage. REF 7th June 1983.
- 83/00163/OLD - Removal of agricultural occupancy condition. REF 18th August 1983.
- 83/00164/OLD - Erection of replacement dwelling following demolition of existing farm house. REF 22nd September 1983.
- 83/00165/OLD - Erection of replacement dwelling. PER 25th October 1983.
- 84/00223/OLD - Erection of garage. PER 14th February 1984.
- 84/00224/OLD - Erection of outbuilding for use as changing room/filtration plant to swimming pool. PER 4th September 1984.
- 88/00184/OLD - Two storey extension to provide Granny annexe. REF 11th August 1988.
- 89/00178/OLD - Change of use from agricultural to equestrian centre. PER 29th July 1989.
- 90/00157/OLD - Rebuild barn to form tack room, office, restroom and detached double garage. PER 16th October 1990.
- 92/00142/OLD - Hay barn. PER 16th June 1992.
- 08/00625/FUL - Replacement three bedroom dwelling with attached double carport/store; change of use of agricultural land to residential. PER 1st May 2008.
- 09/02543/LDC - Use of land as residential garden (CERTIFICATE OF LAWFULNESS). PER 18th May 2010.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

10/02218/FUL - (HOUSEHOLDER) Alterations and extensions including link to double garage and freestanding greenhouse.. PER 16th December 2010.

11/00190/FUL - (HOUSEHOLDER) Single and two storey extensions; new chimney and single storey link to existing garage. PER 27th April 2011.

11/01614/NMA - (MINOR AMENDMENT to Planning Permission 11/00190/FUL) Single and two storey extensions; new chimney and single storey link to existing garage; change of roof covering to the lean-to single storey link between the hall and living room from tiles to lead. REJECT 11th August 2011.

11/02574/FUL - (HOUSEHOLDER) Proposed extensions and alterations. PER 23rd December 2011.

Proposal

- As per Proposal Description
- The proposal is to change the use of the land from agricultural to residential land.

Consultations

WCC Landscape Officer – Objects to the proposal. *“The proposals for change of use from agricultural land to residential garden would introduce domestic intrusion into the countryside. Elements of domestic intrusion that would harm this rural landscape include garden buildings, suburban boundary treatments, recreational structures, hard surfacing for paths and ornamental planting that is out of character with the landscape character of the area.*

The site lies in the Whiteley Woodlands Landscape Character Area in accordance with the Winchester District Landscape Character Assessment. A ‘key issue’ for this landscape character area is;

‘Suburbanisation and urban fringe encroachment at Whiteley...’

Representations:

Curdrige Parish Council: Object to the proposal :-

“The members expressed their concern over the amount of land being proposed to be changed to residential use from agricultural and the proximity of the land to the SPA/Ramsar site.

It was considered that with the future loss of alternative feeding and roosting sites from the North of Whiteley proposals for headline assemblage species (as identified by the 2001 SPA review and being further endorsed by the current SPA review) with particular reference to Lapwings etc, agricultural land closer to the SPA needed to be retained in mitigation of these future losses.

The Parish Council is of the view therefore that consent should be refused. However if the officer is minded to recommend consent that this should only be temporary (5 years) especially in consideration of the reason being given to members by the applicant was for a larger play area, and children grow up, thus the need for the additional land area is time limited by definition. Also a 5 year limit would fit most reasonably with the potential time scale of loss of meadow in the major development area.”

Neighbour Representation: None

Relevant Planning Policy:

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT
Winchester District Local Plan Review (WDLPR)

- DP3, DP4, CE5, CE8,
Winchester Local Plan Part 1 – Joint Core Strategy (LPP1)
- DS1, MTRA4

National Planning Policy Guidance/Statements:

- National Planning Policy Framework

Planning Considerations

Principle of development

- The site is located in a countryside location and the policies of the Local Plan and JCS do not provide a basis to allow the change of use of existing agricultural land to residential curtilage. Generally such a change can fundamentally alter the landscape setting of the countryside and have greater impacts on the wider countryside setting. However each case is considered on its own individual merits and very careful attention should be given to the degree of visual harm that may be created by the change of use. This particular application has many factors (assessed below) that amount to strong material planning considerations that should be weighed against the general presumption against such development in the countryside.

Impact on character of area

Changes of use of land from agricultural to residential garden can be contrary to design and countryside policies DP3, DP4, CE5, CE8 of the WDLPR and policies DS1 and MTRA4 of the JCS. In this instance the following factors are considered material to the assessment of this application:

Visual impact:

- The site is very well enclosed (by mature trees and fence panelling) and there are no public views of the property from outside of the site. In addition there are not long views from the site from elevated positions or from a highway or public footpath. Therefore the site is not prominent within the landscape and the proposed change of use will not harm or change the character of the wider countryside;
- The character of the area is semi-rural in nature rather than purely rural. The field is located in close proximity to various dwellings to the south of the site and also an office development. To the east of the site there are pony paddocks with associated fences and garden areas. As mentioned above the field is not located within a large expanse of open countryside where there are no long views of the site.

Precedent in the locality:

- There is a precedent in the immediate area for changing the use of land from agricultural to residential. Permission 05/00894/ful granted the change of use of land adjoining Hambleside from paddock to residential garden. This site is located approximately 24m (at its nearest point) from the application site. This site is also served by the private lane that serves the application site.

Appeal precedent:

- As part of the details prepared by the agent representing the application, the agent has made the LPA aware of various appeal decisions in the district where an Appeal Inspector has granted change of use of agricultural land to residential, upon sites that were not prominent within the landscape and where public views of the site

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

were either very limited or non-existent. It is considered that due to the secluded location of the application site (as mentioned above it is not prominent or viewable from public realm) these appeal decisions are relevant to this application and are material planning considerations.

- It is recognised that all sites are different and this has implications for the assessments made on individual appeal decisions and how these can be applied to the current proposal. However the appeals cited do provide an overview of the approach that some Inspectors are taking in relation to the extension of residential curtilages in the countryside within the Winchester District.

Appeal APP/L1765/A/01/1064591. Land adjoining Rowndale, Southwick Road, North Boarhunt, Fareham. LPA ref W12533/02, March 2001, allowed the change of use of 0,6 hec of land as private garden. At para7 the Inspector stated:-

“ However, providing a proposal did not harm the character or appearance of the countryside or did not have other undesirable consequences, I do not consider that it would be contrary to the objectives of the general countryside policies of the development plan. In such circumstances an exception to them would in my opinion be justified. “

The Inspector states that conditions could be used to control undesirable consequences that may arise from the proposed change of use (such as external storage or car parking) could be controlled by planning condition. The Inspector also mentioned that the garden use with appropriate planting and landscaping could improve the appearance of the land.

Appeal APP/L1765/A/06/2007126. Tinnisbourne, Beacon Hill Lane, Exton, Southampton. LPA ref 05/02606/ful, Oct 2005, allowed the change of use from meadow to garden. At para 16 the Inspector wrote:-

“ The question is thus whether the change of use can be objectionable in principle if it cannot be seen and it causes no harm to any other interest of acknowledge importance”.

With this appeal it is important to be aware that the LPA was unable to show the Inspector where there were views of the site from public viewpoints. It should also be born in mind that the Inspector concluded that the quality of the landscape and its scenic beauty would not be harmed provided that no buildings or other structures were put on the site and that the land was well landscaped. The Inspector considered the site's contribution to the character of the area (AONB) and its natural beauty amenity and tranquillity. The Inspector felt that because the site was well contained (as with the land subject to this planning application) the development did not alter the intrinsic qualities of the countryside. As with the appeal at Rowndale the Inspector imposed conditions to remove permitted development rights for outbuildings.

Taking into account all of the above factors it is considered that the proposed change of use of land can be supported as the proposed change of use will not materially harm or alter the character or appearance of the area.

The existing outbuildings located upon the site (which appear to be used in connection with the animals located upon the field) and children's play equipment are not visually prominent from outside of the site (as mentioned there are not public views of the land).

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

Conditions have been placed upon the consent to control the future erection of outbuildings and structures, to ensure that the site does not become excessively visually prominent, through the future use of the site as garden land. The imposition of such conditions accords with the approach to managing the future use of the site, adopted by both Appeal Inspectors who determined the two appeal decisions that have been used by the applicant to justify the proposed development.

Alternative uses:

- Due to the location of the field adjacent to the Barn and a nearby office development, and also due to the poor access to the field for farming vehicles (tractors etc would be required to enter the field through a set of private gates and cross a car park that serves the office development) the existing field is not considered to be well suited to a intensive/productive agricultural/equestrian uses.

The Parish Council's request to limit the permission for a temporary 5 year period to allow the applicant's children to use the garden space for the duration of their childhood is noted. However it is considered that such a condition would be unreasonable and unnecessary as the assessment made above is that the proposed change of use would not cause undue visual harm to the surrounding countryside and therefore could exist in perpetuity.

Impact to neighbours residential amenity

- The proposed use of the land as private residential garden will not harm the residential amenity of the occupants of nearby dwellings to the south or east of the application site.

Ecology and bio-diversity.

- The land subject to this application consists of a field containing grass. The proposed change of use to residential garden is unlikely to harm local ecology or protected species. The site is not located in close proximity to a SINC. The field is not located upon the boundaries of the Creek / river to the west of the site.

Recommendation

APPROVE

Conditions/Reasons

01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

02 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes E of Part 1 of the Order shall be carried out without the prior written consent of the Local Planning Authority.

02 In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

03 The land shall not be paved (apart from the laying of a domestic patio / seating area) or used for the parking of vehicles or caravans, for motorsports, for noisy sports, for open storage or for the stationing of play or sports equipment, sheds, gazebos or similar structures.

03 Reason: In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

04 No fencing exceeding 1m in height shall be erected within the site or upon the site's boundaries.

04 Reason: To protect the amenities of the locality and to maintain high quality environment.

05 The land subject to this permission as highlighted in red on the submitted Location Plan shall be used in connection with the domestic use of The Barn, Harmsworth Farm, Botley Road, Curbridge.

05 Reason: In the interests of the visual amenity of the area, to protect the appearance and character of the area, and to ensure that urbanisation of the countryside does not result.

Informatives

01. This permission is granted for the following reasons:
On balance the development is considered to be in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations (including the harm that the development may cause) do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

02. In accordance with paragraphs 186 and 187 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 applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

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

Winchester District Local Plan Review 2006: DP3, DP4, CE5, CE8,
Winchester District Local Plan Part 1 JCS 2013: DS1, MTRA4

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT

04. The existing buildings on the site and existing play equipment are not subject to conditions 3 and 4 because they were erected at the site before the change of use from agricultural land to residential land was granted consent.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

14

Winchester City
Council
Planning Department
Development Control

Committee Item

TEAM MANAGER
SIGN OFF SHEET

Case No:	15/01173/FUL	Valid Date	9 June 2015
W No:		Recommendation Date	4 September 2015
Case Officer:	Michelle Thomson	8 Week Date	4 August 2015
CIL Liable?	No	Committee date	17 September 2015
Recommendation:	Application Permitted	Decision:	Committee Decision

Proposal: Change of use of agricultural land into individual residential curtilage for the following properties: fronting Church Road - 1 Hazelton Mews, 2 Hazelton Mews, Holly Cottage, Rookesbury House, Rookesbury Court, Hawthorn Cottage, Holmwood, and land currently held in trust to the rear of Tiggers Pond, Midville Cottage, Casita Mia, The Dell, Claverton House, Otterton, and between Willowdene and Witches End along Ingoldfield Lane

Site: Land At Rear Of Properties East Of Church Road Newtown Hampshire

Transport	Open Space Y/N	Legal Agreement	S.O.S	Objections	EIA Development	Monitoring Code	Previously Developed Land
N	N	N	N	N	N	N	N

APPROVE Subject to the condition(s) listed		
	Signature	Date
CASE OFFICER	M Thomson	04/09/2015
TEAM MANAGER	Julie Pinnock	08/09/2015

AMENDED PLANS DATE:-

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

Item No: 02
Case No: 15/01173/FUL
Proposal Description: Change of use of agricultural land into individual residential curtilage for the following properties: fronting Church Road - 1 Hazelton Mews, 2 Hazelton Mews, Holly Cottage, Rookesbury House, Rookesbury Court, Hawthorn Cottage, Holmwood, and land currently held in trust to the rear of Tiggers Pond, Midville Cottage, Caslta Mia, The Dell, Claverton House, Otterton, and between Willowdene and Witches End along Ingoldfield Lane, Land At Rear Of Properties East Of Church Road Newtown Hampshire
Address: Soberton
Parish, or Ward if within Winchester City:
Applicants Name: Mr Jonathan Sherwill
Case Officer: Michelle Thomson
Date Valid: 9 June 2015
Site Factors: County Heritage Site
Contaminated Land Consultation
Recommendation: Application Permitted

General Comments

This application is reported to Committee because the applicant is related to an elected member.

Site Description

The site comprises of 1.212 acres of undeveloped agricultural land situated to the rear of the residential properties located on the eastern side of Church Road. The land is accessible from Ingoldfield Lane with a narrow strip of land in between the residential properties of Willowdene and Witches End leading to the wider open field area. The access route is unmade and is well vegetated on both sides by mature hedgerow. The main field area is separated from the adjoining field to the east by a post and wire fence. To the west of the site lie the residential properties on Church Road, the rear of which are mostly visible from the field. The boundary treatment between the residential gardens of these properties and the field area varies greatly but includes hedgerows, timber fencing and trellis. Owing to the position of the site, to the rear of these residential properties and the relative distance from Ingoldfield Lane the site is highly enclosed and owing to these factors and the substantial levels of vegetation surrounding the site it is well screened and primarily only visible from the properties which enclose it.

Proposal

The proposal seeks planning permission for the change of use of the land from an agricultural use to a residential use. The land has been purchased by a Trust, which comprises of 7 residents whose properties adjoin the land. It is intended to subdivide the land in order to align with the existing boundaries of the residential properties and provide additional amenity space (garden) for these dwellings. Land which is currently unallocated will remain in the ownership of the Trust and has been offered to the relevant

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

adjacent plots.

Relevant Planning History

89/01779/OLD – (Amended Description) Change of use from agricultural to residential (garden) land to rear of Holmewood, Casita Mia, The Dell, Claverton House and Tilford. Application Permitted 21/04/1989

Consultations

Engineers: Drainage: No objection to the clearance and maintenance of the existing drainage channels.

Representations:

No representations received.

Relevant Planning Policy:

Winchester District Local Plan Review
Countryside Policies

Winchester Local Plan Part 1 – Joint Core Strategy
MTRA4

National Planning Policy Guidance/Statements:
National Planning Policy Framework

Supplementary Planning Guidance
Soberton Village Design Statement
Winchester District Landscape Character Assessment

Planning Considerations

Principle of development

The Winchester District Development Framework does not currently include any specific planning policies which relate to the conversion of agricultural land to residential use. Policy MTRA4 of the Winchester Local Plan Part 1 – Joint Core Strategy (LPP1) would be applicable as the site is situated within the countryside and this policy states that the Local Planning Authority will seek to limit development to that which has an essential need to be located within the countryside. However, the policy makes no specific reference to the change of use of agricultural land to residential use.

As such each application for such proposals must be considered on an individual basis, as with all planning applications, and the potential for the countryside character of a site to be fundamentally altered must be assessed. In particular, it is noted that the change of use of land from agricultural to residential use can not only adversely impact the fundamental character of the countryside, through the subdivision of land and the erosion of large open field structures, but can also be visually harmful as a result of the domestic paraphernalia often associated with such changes.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

Nonetheless, each application must be considered on its own individual merits and careful assessment must be made in respect of the potential adverse impacts to the overall character and appearance of a countryside location.

Impact on character of area and neighbouring property

As set out above, the site is very well enclosed as a result of its location and the existing level of vegetation, which exists. As such there are not public views of the field from outside of the site with the exception of the residential dwellings, which enclose the field. It is therefore, not considered that the site forms a prominent feature within the local landscape and is not situated within a large expanse of countryside, where long views of the site might be adversely impacted by such a change of use.

The site is located within the Forest of Bere Lowlands character area, where as noted in the Winchester District Landscape Character Assessment the strategies for the area should include resisting development, which suburbanises local settlements and minimising the impact of intrusive structures.

Whilst the impacts of unrestricted domestic paraphernalia could be detrimental to the visual appearance of this countryside location it is noted that such matters and other undesirable consequences of the change of use could be controlled by planning conditions.

Given that there are no prominent views of the site from public viewpoints and provided that any development on the land is restricted and controlled through planning conditions then it is not considered that the character of the area or its amenity value would be fundamentally altered or harmed.

As set out in previous appeal decisions relating to such matters, including reference: APP/L1765/A/06/2007126 relating to the change of use of a meadow to garden in Exton, it is not considered that the intrinsic quality of the countryside would be altered as a result of this change of use. As such it is not considered that an objection in principle to the development can be raised if it cannot be seen and it causes no harm to any other interest of acknowledged importance (Paragraph 16 of APP/L1765/A/06/2007126).

Taking into account all of the above factors it is therefore, considered that the proposed change of use of the land from agriculture to residential can be supported as the proposal will not materially harm or alter the character or appearance of the area.

Conditions have been recommended which would control the erection of boundary treatments, outbuildings and other structures on the site in order to ensure that the change of use does not result in any excessive visual prominence within the overall landscape.

In addition to these matters it is also noted that the proposed use of the land as private residential garden is not considered to result in any unacceptable harm to the residential amenity of the occupants of the nearby dwellings as it will largely replicate existing conditions, albeit with increased garden sizes.

Other Matters

Whilst it is noted that there are a number of SINCS in the surrounding local area these

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

do not adjoin the site. Furthermore, it is noted that the existing field consists of relatively low lying grass and therefore, appears to have been subject to some ongoing maintenance and management. Having assessed this habitat it is not considered that the proposed change of use to residential garden land would result in any harm to local ecology or protected species.

Recommendation

Application Permitted subject to the following condition(s):

Conditions

- 01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).
- 02 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A-H of Part 1 of Schedule 2, or by Classes A, C or F of Part 2 of Schedule 2 or by Classes A-O of Part 14 of Schedule 2 shall be carried out without the prior consent of the Local Planning Authority.
- 02 Reason: To protect the amenities of the locality and to maintain a good quality environment.
- 03 Prior to the commencement of development the applicant shall submit details illustrating the proposed methodology for the clearance of the existing drainage channels on site and a suitable maintenance programme for these channels which shall be agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.
- 03 Reason: To ensure the drainage channel is protect in the interests of amenities of the locality and to maintain a good quality environment.

Informatives:

- 01 This permission is granted for the following reasons:
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.
- 02 The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Review 2006: Countryside Policies
Winchester Local Plan Part 1 – Joint Core Strategy: MTRA4

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

- 03 All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.
- 04 During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.
- 05 In accordance with paragraphs 186 and 187 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 instance the applicant was updated of any issues after the initial site visit.
- 06 The applicant is advised that one or more of the Conditions attached to this permission need to be formally discharged by the Local Planning Authority before works can commence on site. Details, plans or samples required by Conditions should be submitted to the Council at least 8 weeks in advance of the start date of works to give adequate time for these to be dealt with. If works commence on site before all of the pre-commencement Conditions are discharged then this would constitute commencement of development without the benefit of planning permission and could result in Enforcement action being taken by the Council.
- The submitted details should be clearly marked with the following information:
- The name of the planning officer who dealt with application
 - The application case number
 - Your contact details
 - The appropriate fee.
- Further information, application forms and guidance can be found on the Council's website - www.winchester.gov.uk.
- 07 The applicant is advised that there are a number of hedgerows on and or adjacent to the site. Prior to undertaking any works or removal of any hedgerows or parts of hedgerows you are strongly advised to contact the Landscape Team (landscape@winchester.gov.uk) to discuss the relevant hedgerow and works proposed. It is noted that in some circumstances it will be necessary to apply in writing to the Local Planning Authority to remove a hedgerow or part of a hedgerow.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

The Local Planning Authority has the power to impose penalties if there is a breach of the Hedgerow Regulations.

- 08 The applicant is advised that birds nests, when occupied or being built, receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of potential bird nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc.) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.

OFFICERS ASSESSMENT

Case Reference: 17/01203/FUL

Proposal: Use of land as residential garden.

Site Address: The Caravan Oak Farm Winchester Road Wickham Fareham

Decision Type: Delegated Decision

Recommendation: Application Refused

Officer: Liz Marsden

Date: 21 July 2017

Date of Site Visit: 14.06.17

EIA:

Extension of Time Date(if applicable) 6 July 2017

Consultee:

Parish Consultation Letter

Officers Report:

There are two mobile homes currently on the site, one of which is lawful and the other the subject of a separate application. The area of land around the mobile homes is partially maintained, but the majority is overgrown. The applicant wishes to turn the entire area within the application site into garden area to serve the mobile homes.

Relevant planning history:

15/00782/LDC - The use of land for the siting of a caravan (mobile home) and the construction of an extension to the caravan (mobile home) - LDC issued 10.02.2016

Enforcement Notice with regard to the change of use of land from agricultural to the use for the siting of a caravan/mobile home and the change of use of land from agricultural to enclosed residential curtilage. Issued 03.04.2017 but withdrawn on 02.05.2017 with the submission of the current application.

Principle of development.

The site is located in the countryside where, whilst there is no specific policy relating to the change of use of agricultural land to residential curtilage, policy

MTRA4 of the Winchester Local Plan Part 1 - Joint Core Strategy (LPP1) states that the Local Planning Authority will seek to limit development to that which has an essential need to be located within the countryside. Applications for such proposals must therefore be assessed on their individual merits and the potential adverse impacts to the overall character and appearance of the countryside location.

The argument has been put forward by the applicants that the types of development set out in policy MTRA4 is not comprehensive and the fact that it does not specifically relate to another type such as the use of land for a residential garden should not lead to an automatic rejection of the proposal on policy grounds. This point has been acknowledged in the previous paragraph. However, the applicants contention that acceptable development should include 'recreation' and 'leisure' insofar as this would relate to private gardens is not accepted. Policy DM13 of Winchester District Local Plan Part 2 - Development Management and Site Allocations (LPP2), sets out the specific criteria for leisure and recreation facilities and relates to those for which a countryside location is necessary.

The supporting statement refers to a number of other decisions where permission has been granted for the change of use of agricultural land to residential garden but, as stated by the Inspector in determining an appeal on a different case, (16/00059/FUL - Flintwall cottage, Ingolfeld Lane, Soberton) which is not referred to by the appellants, proposals of this type which are relatively rare 'need to be treated on their own merits within the general framework of protecting the countryside from inappropriate development. I therefore give limited weight to past decisions... to allow such changes of use since each will have involved different local circumstances'.

In the cases referred to, the development was for the change of use of agricultural land to create an extension of an existing garden area, serving a permanent dwelling. In this case there is no existing garden area on the application site as, although the recent Lawful Development Certificate accepted the mobile home as lawful, it did not include the land around the mobile home as it was not satisfied that it was used for residential purposes ancillary to the use of the land for siting a mobile home. The circumstances of the application are not therefore comparable to these other cases.

Potential impact on:

The site and surroundings. The site currently contains two mobile homes, one of which is unauthorised and is a sizeable area which appears to have been in agricultural/horticultural use previously, as evidenced by the remaining supporting structure of a polytunnel. However, with the exception of the land immediately adjacent to the two mobile homes which is mown and maintained, the site is currently overgrown. There is a belt of mature evergreen trees along the northern boundary of the site but other boundaries are undefined. Access to the site is by means of the track which serves the lawful mobile home on the site.

To the north west and west of the site there are the gardens of Ashley Manor Rest Home, with the land immediately to the north, east and south the land in a variety of commercial uses, including a storage depot, agricultural uses and a farm shop.

The proposal to use the land as garden area would result in the consolidation of domestic activity on this site and, whilst it would not benefit from permitted development rights available to dwelling houses, it is likely that there would be other domestic paraphernalia together with more formal boundary treatment to enclose the site, which would alter the character and appearance of the surrounding area. It is acknowledged that views of the site are limited but this does not provide adequate justification for the proposal. To quote the Inspector in the determination of a similar case (11/00571/FUL), 'The proposal would result in physical and visual changes of a domestic nature to the character of the site, which has a predominantly agricultural character. It does not inevitably follow that development will be visually acceptable just because it cannot be readily seen by the public or that similar characteristics are visible on other land in close proximity.'

Whilst it would not be unreasonable to expect some outdoor amenity area to be associated with an existing residential unit, it is considered that the size of the area proposed is disproportionate to that of the unit and in the absence of any overriding justification, there is no compelling reason for a change of use of the land to residential purposes. It should also be noted that, in the considerable length of time that the now authorised caravan has been sited on the land, there has been little attempt to clear or maintain the area, even to the extent that could be undertaken without planning permission.

Other issues.

- Ownership. The point has been made in letters of objection that the application has been made incorrectly in that notice has not been served on all parties who have an interest in the land and that there is no support from the majority of the beneficiaries of the estate. The application was submitted with the correct certificates completed and notice has been served on a number of other parties and it was therefore appropriate to process it. Issues of land ownership are civil matters and do not affect the planning considerations of the development.

- Access. The Parish council have requested that the rights of way across the access are verified by the Council. However, this is again a civil matter and where the access was shown within the boundary of the site, it can be considered as part of the application.

The proposal would result in the domestication of a significant area of land, the size of which is disproportionate to the residential unit which it is to serve. Winchester District Local Plan Part 1 - Joint Core Strategy policy MTRA4; and Winchester District Local Plan Part 2 policy DM23.

Representation

Shedfield PC

- Dispute over land ownership should be resolved before decision taken.
- Would like WCC to verify access rights.
- If permitted there should be a condition linking it to the use of the mobile home for the current occupant only

2 letters of objection on grounds of:

- Application incorrectly made as notice not served on all owners of the land
- Track owned by someone who has not been notified.
- Additional use of track increase noise and disturbance to occupants of the Oaks

- Contrary to policy
- Application made by an individual who is not the registered proprietor
- Planning application does not have the support of the majority of beneficiaries.

Application Refused for the following reason.

01 The proposed development is contrary to Winchester District Local Plan Part 1 - Joint Core Strategy policy MTRA4; and Winchester District Local Plan Part 2 policy DM23, in that there is no overriding justification for the use of the area of land as garden which is considered to be disproportionate and unrelated to the size and position of the residential unit it is to serve. The domestication of the site through the introduction of residential paraphernalia would detract from the countryside character of the area.

Informatives:

In accordance with paragraphs 186 and 187 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

In this instance a site meeting was carried out with the applicant.

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

Local Plan Part 1 - Joint Core Strategy: MTRA4,
Local Plan Part 2 - Development Management and Site Allocations: DM23

End of Report



TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Refusal of Planning Permission

Planning Application Reference: **17/01203/FUL**

Decision Date:- 21.07.2017

Winchester City Council **REFUSES** planning permission for:

Use of land as residential garden. At:

The Caravan Oak Farm Winchester Road Wickham Fareham Hampshire

for the following reason:-

1 The proposed development is contrary to Winchester District Local Plan Part 1 - Joint Core Strategy policy MTRA4; and Winchester District Local Plan Part 2 policy DM23, in that there is no overriding justification for the use of the area of land as garden which is considered to be disproportionate and unrelated to the size and position of the residential unit it is to serve. The domestication of the site through the introduction of residential paraphernalia would detract from the countryside character of the area.

J Pinnock
Julie Pinnock BA (Hons) MTP MRTPI
Head of Development Management



Notes To Accompany Planning Decision Notice

General Notes for Your Information:

In accordance with paragraphs 186 and 187 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

In this instance a site meeting was carried out with the applicant.

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

Local Plan Part 1 - Joint Core Strategy: MTRA4,
Local Plan Part 2 - Development Management and Site Allocations: DM23

Rights of Appeal:

- The applicant or the applicant's representative has the right to appeal to the Secretary of State against the decision of the Local Planning Authority under Section 78 of the Town and Country Planning Act 1990.
- As this is a decision relating to a planning application, any appeal against the reason for refusal must be made within six months of the date of this decision notice.
- If an enforcement notice is served relating to the same or substantially the same land development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this decision notice, whichever period expires earlier.
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Appeals must be made using a form which you can get from the Secretary of State at:

The Planning Inspectorate (England)
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

If you need information in a different format e.g. large print, Braille, electronically or a translation, contact our Customer Service Centre on 01962 840 222 or by email customerservice@winchester.gov.uk





Appeal Decision

Site visit made on 20 August 2018

by **Kenneth Stone BSc Hons DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th September 2018.

Appeal Ref: APP/L1765/W/18/3193948

Oak Farm, Wincester Road, Wickham PO17 5HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Gray against the decision of Winchester City Council.
 - The application Ref 17/01203/FUL, dated 2 May 2017, was refused by notice dated 21 July 2017.
 - The development proposed is the use of land as residential garden.
-

Decision

1. The appeal is allowed and planning permission is granted for the use of land as residential garden at Oak Farm, Wincester Road, Wickham PO17 5HE in accordance with the terms of the application, Ref 17/01203/FUL, dated 2 May 2017, subject to the conditions contained in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Ian Gray against Winchester City Council. This application is the subject of a separate decision.

Background

3. At the time the Council took the decision to refuse permission for the proposed development there was only one lawful dwelling located within the identified site boundary. Subsequent to that decision a further lawful development certificate has been issued for a second dwelling within the boundary of the site to which this appeal relates. I am required to determine the appeal on the basis of the circumstances before me at the time of making my decision and therefore this is a material change in circumstance to which I have had regard.
4. The revised National Planning Policy Framework (the Framework) was published on the 24 July 2018 and the parties were given the opportunity to comment on the bearing the revised Framework had on their case.

Main Issue

5. The main issue in this appeal is the effect of the proposed change of use on the character and appearance of the surrounding area.

Reasons

6. The appeal site is located outside the built-up areas of Winchester, Whitley and Waterlooville and is not one of the settlements covered by Policies MTRA2 or 3 in the Local Plan Part 1: Joint Core Strategy (JCS), it is therefore, under the terms of Policy MTRA4 in the JCS countryside.
7. The site presently accommodates two separate modest mobile homes, a small area of maintained ground, and an access and hard standing, but the major part of the site is overgrown with the remnants of an agricultural polytunnel remain visible. The boundaries of the site are not presently delineated by any means of enclosure with the exception of the northern boundary which is formed by a line of mature evergreen trees. The site is however readily distinguishable by changes in ground levels and banking to the adjacent areas. The immediately surrounding areas are in a variety of commercial uses including a storage depot, a farm shop, a rest home and a repair garage. The surrounding area includes areas of hard surfacing for parking, open storage of various materials and areas of aggregate or processed material. The immediate area has a strong industrial and commercial character rather than that of a rural area of open countryside which is located further to the east.
8. Whilst the use of land as domestic garden would likely result in the introduction of fencing and a degree of residential paraphernalia given the context of the immediately surrounding area this would not appear as an alien intrusion in an otherwise rural setting and an incursion into the countryside. Rather it would add to the mix of uses and activities that presently exist in the area. The nature of the adjoining uses may not be the most neighbourly activities but the introduction of a reasonable area of amenity space and fencing may create a better residential environment and living conditions for the occupiers of the existing lawful dwellings than that presently enjoyed.
9. The site is not readily visible from public locations and would be contained within an existing myriad of uses and activities and would not be viewed or perceived as isolated or an incursion into the countryside.
10. Policy MTRA4 of the JCS seeks to ensure development in the rural area does not cause harm to the character and landscape of the area or neighbouring uses. Policy DM23 of the Local Plan Part 2: Development Management and Site Allocations (DMSA) similarly seeks to ensure development would not have an unacceptable effect on rural character by means of visual intrusion. Neither policy directly addresses the issue of change of use to residential amenity land and given the context of my conclusions regarding the effect on the character of the area I am satisfied that the proposal would not conflict with these policies.
11. For the reasons given above I conclude that the proposed development would not result in material harm to the character and appearance of the surrounding area. Consequently the proposal would not conflict with policy MTRA4 in the JCS or DM23 in the DMSA which seek to protect the rural character of the countryside amongst other matters.

Overall conclusions and conditions

12. I have concluded that the proposal would not result in material harm to the character and appearance of the surrounding area. The proposal would

therefore not conflict with but be in accordance with an up to date development plan. The proposals would therefore benefit from the presumption in favour of sustainable development. The proposals are in accordance with the development plan and there are no material considerations that would indicate a decision otherwise should be taken. On this basis I will allow the appeal.

13. I have considered the conditions suggested by the Council and I am satisfied that conditions restricting further hard standings, parking of vehicles and caravans and for open storage would be appropriate in the interest of the appearance of the development. Moreover for the same reason details of fencing and landscaping should be submitted to and approved by the Council. Whilst I note that the appellant raises concerns regarding the restrictions on permitted development rights there are legitimate concerns that the proliferation of further built development and, outbuildings etc could have an adverse effect on the character and appearance of the area and that these should be appropriately the subject of control.
14. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

Schedule of conditions for appeal APP/L1765/W/18/3193948

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes E or F (outbuildings or hard standings) of Part 1 of Schedule 2, or by Part 2 of Schedule 2 (Minor operations) or by Part 4 of Schedule 2 (Temporary Buildings and uses) or by Part 14 of Schedule 2 (Renewable Energy) shall be carried out without the prior written consent of the Local Planning Authority.
3. The land, with the exception of the areas adjacent to the residential units currently used for that purpose, shall not be paved or used for the parking of vehicles or caravans, for open storage or for the stationing of play equipment without the prior consent of the local planning authority.
4. No development shall take place until details of landscape works, including the treatment of the boundaries of the site have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.

END



Mr W G Atkinson
5 Hillside
Curdrige
Southampton
SO32 2HJ

Your Ref:
Our Ref: Mrs E Fallon
Enq to: Mrs E Fallon
Direct Line: (01962) 848376
Email: efallon@winchester.gov.uk

3rd March 2020

Dear Sir

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

**Re: Section 172 Town and Country Planning Act 1990
Enforcement Notice relating to land to the rear of 5 & 6 Hillside, Kitnocks Hill, Curdrige,
Southampton, SO32 2HJ**

The local planning authority, Winchester City Council, has issued an enforcement notice relating to the above land and I now serve on you a copy of the notice as you have an interest in the land.

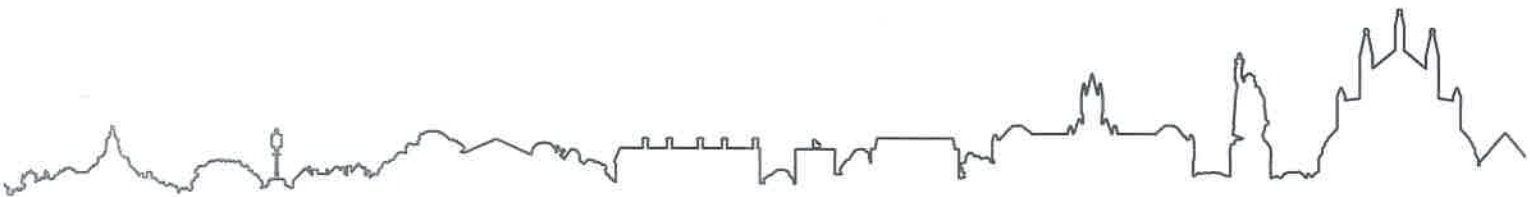
There is a right of appeal in respect of the enforcement notice to the Secretary of State (at The Planning Inspectorate). Unless an appeal is made, as described below, the notice will take effect on 6th April 2020 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal in respect of the enforcement notice.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 6th April 2020.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;



(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924. You should pay the fee to Winchester City Council (cheque made payable to Winchester City Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit the appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

Parties on whom the Enforcement Notice has been served:

Mrs Jacqueline Atkinson, 5 Hillside, Curdridge, Southampton, Hampshire, SO32 2HJ.

Yours faithfully



Catherine Knight
Service Lead - Legal

Issued: 3rd March 2020

WINCHESTER CITY COUNCIL

ENFORCEMENT NOTICE

relating to land to the rear of 5 and 6 Hillside, Kitnocks Hill, Curridge,
Southampton, Hampshire SO32 2HJ

Catherine Knight, Service Lead: Legal Services, Winchester City Council, City Offices,
Colebrook Street, Winchester, Hampshire, SO23 9LJ

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY: WINCHESTER CITY COUNCIL

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND AFFECTED**

Land to the rear of 5 and 6 Hillside, Kitnocks Hill, Curdridge, Southampton, Hampshire SO32 2HJ, shown edged red on the attached plan ("the Land").

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the material change of the use of the Land from agriculture to residential amenity land.

4. **REASONS FOR ISSUING THIS NOTICE**

The Council considers it expedient to issue this notice because the breach of planning control has taken place within the last 10 years.

The Winchester District Local Plan Part 1 (2013) policy MTR44 'Development in the Countryside' supports development 'which has an operational need for a countryside location, such as for agriculture, horticulture or forestry' so long as it does not 'cause harm to the character and landscape of the area or neighbouring uses'.

The Winchester District Local Plan Part 2 (2017) policy DM23 'Rural Character' seeks to ensure that development proposals are only permitted where they do not 'have an unacceptable effect on the rural character of the area, by means of visual intrusion, the introduction of incongruous features, the destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment'.

Both Government planning policy and local planning policy seeks to ensure that new development is right for its context and that it contributes to and enhances the environment, recognising the intrinsic character and beauty of the countryside (ref: NPPF paragraph 170).

Furthermore on 19 February 2020, planning permission was refused under ref: 19/02468/FUL for 'Use of land as residential garden' for the following reason:

"The proposed development is contrary to policy MTR4 of Winchester District Local Plan Part 1 and policy DM23 of Winchester Local Plan Part 2, in that it would result in the domestication of the land through the introduction of residential features to the detriment of the landscape character and appearance".
The use of the Land as residential amenity land has a materially detrimental effect on the landscape character and appearance of the surrounding area. It is considered that the residential use of the land is contrary to these policies. Planning conditions would not overcome these objections.

5. WHAT YOU ARE REQUIRED TO DO

1. Permanently cease the use of the Land as residential amenity land including the domestic use of the shed/garden room.
2. Remove all domestic items including but not limited to the washing line, the table, chairs, the picnic bench and the BBQ.
3. Break up the patios and hardstanding and remove the resultant materials from the Land.
4. Remove the lighting from the Land.

6. TIME FOR COMPLIANCE

Steps 1 – 4: 3 calendar months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 6th April 2020 unless an appeal is made against it beforehand.

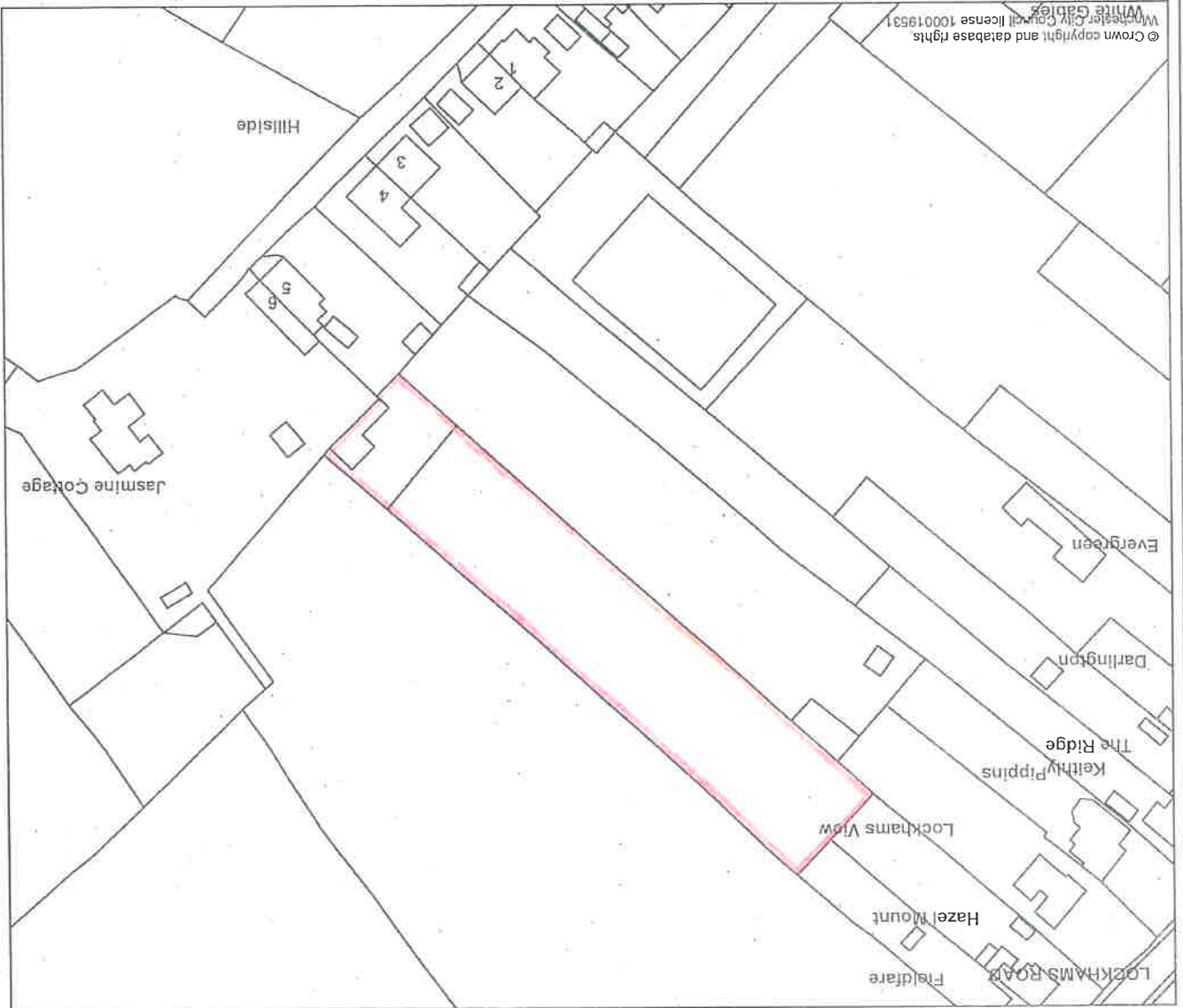
Date 3rd March 2020

Signed
Service Lead: Legal Services
on behalf of: Winchester City Council
City Offices
Colebrook Street
Winchester
Hampshire
SO23 9LJ



Land to the Rear 5 & 6 Hillside

Kitnocks Hill, Curridge, SO32 2HJ



© Crown copyright and database rights
 Winchester City Council license 100019531
 White Gables

Legend

Organisation	Winchester City Council
Department	Winchester GIS
Comments	Not Set
Date	26/02/2020
PSMA Number	100019531

Tel. 01962 848 512
 website: www.winchester.gov.uk

Winchester City Council
 City Offices
 Colebrook Street
 Winchester
 SO23 9LJ



Scale: 0 12.5 25 50 Meters

Part of the Winchester District Development Framework

Winchester District Local Plan Part 1 – Joint Core Strategy

**ADOPTED
MARCH 2013**



ity



Winchester
City Council

frontage may be supported, where this would be of a form compatible with the character of the village and not involve the loss of important gaps between developed areas -

Abbots Worthy, Avington, Beauworth, Beeches Hill, Bighton, Bishops Sutton, Bramdean, Chilcomb, Compton Street, Crawley, Curbridge, Curdrige, Durley, Durley Street, East Stratton, Easton, Exton, Gundleton, Headbourne Worthy (part), Hundred Acres, Itchen Stoke, Kilmeston, Lower Upham, Martyr Worthy, Meonstoke, New Cheriton/Hinton Marsh, Newtown, North Boarhunt, Northbrook, Northington and Swarraton, Itchen Abbas (part), Otterbourne Hill, Ovington, Owslebury, Shawford, Shedfield, Shirrell Heath, Soberton, Soberton Heath, Stoke Charity, Tichborne, Upham, Warnford, Wonston, Woodmancott.

Other development proposals may be supported to reinforce a settlement's role and function, to meet a community need or to realise local community aspirations. These should be identified through a Neighbourhood Plan or process which demonstrates clear community support.

All new development should be appropriate in scale and design and conserve each settlement's identity, countryside setting, key historic characteristics and local features, particularly as identified in Village Design Statements, the District Landscape Assessment or other guidance. Development should protect areas designated for their local, national, or international importance, such as Gaps and the South Downs National Park.

The Countryside

- 7.30 Very small communities which are no more than a collection of houses or isolated dwellings are not covered by the above policies and are considered to be within the wider countryside. Development will be limited to that which has an essential need to be located in the countryside. This may include development which is necessary for agricultural, horticultural or forestry purposes, and certain types of open recreational uses which require a countryside location.
- 7.31 In addition, there are a number of existing buildings within the countryside of the District, some of which are no longer in use and others which are occupied by existing users or existing businesses which may need to expand. These existing structures are often an accepted part of the landscape and it is considered appropriate to provide for them to be used productively, through re-use or for them to be redeveloped.

Policy MTRA 4 - Development in the Countryside

In the countryside, defined as land outside the built-up areas of Winchester, Whiteley and Waterlooville and the settlements covered by MTRA 2 and 3 above, the Local Planning Authority will only permit the following types of development:

- **development which has an operational need for a countryside location, such as for agriculture, horticulture or forestry; or**
- **proposals for the reuse of existing rural buildings for employment, tourist accommodation, community use or affordable housing (to meet demonstrable local housing needs). Buildings should be of permanent construction and capable of use without major reconstruction; or**
- **expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need, provided development is proportionate to the nature and scale of the site, its setting and countryside location; or**
- **small scale sites for low key tourist accommodation appropriate to the site, location and the setting.**

Development proposed in accordance with this policy should not cause harm to the character and landscape of the area or neighbouring uses, or create inappropriate noise/light and traffic generation.

- 7.32 Across the District there are a number of large commercial and educational/training establishments set in the wider countryside: IBM (Hursley), Defence establishments (Winchester, Worthy Down and Southwick), Sparsholt College (Sparsholt), Marwell Wildlife (Colden Common), and Arqiva (Crawley). These establishments are primarily involved in business and training activities which support the District's economy and it is important that they can continue to thrive. They also employ large numbers of people with a range of skills that the Council wishes to retain locally.
- 7.33 Increasingly these organisations are looking to meet modern business needs through adaptation and expansion of their existing buildings. Often these establishments occupy former country estates outside of any defined settlement, where development would normally be constrained. Marwell Wildlife (Colden Common) also lies within the South Downs National Park. However, the City Council and the NPA recognises the value of these organisations and their contribution to the local economy and wish to work with them to plan for their future needs.

<p>Policy MTRA 5 - Major Commercial and Educational Establishments in the Countryside</p>
--

The Local Planning Authority will support the retention and development of major commercial and educational establishments which occupy rural locations in the District, where this will help them continue to contribute to the District's economic prosperity. Because of their sensitive rural locations, masterplans should be prepared prior to development which identify the site opportunities and constraints, promote sensitive land and building stewardship, promote sustainable development, and maximise sustainable transport opportunities, whilst limiting impacts on the surrounding environment and communities.

**Winchester District Local Plan Part 2 –
Development Management and Site
Allocations
Adopted Plan 2017**

(Written Statement to be Adopted 5th April 2017)

- 6.4.10 Development should make a positive contribution to local character and distinctiveness, as set out in adopted planning documents and guidance. Buildings, the spaces between them, street layouts and appearance, the natural environment and topography are all elements that contribute to the distinctive sense of place. Assessments of landscape or townscape sensitivity may be needed and development proposals should seek to avoid harmful impacts.
- 6.4.11 Supplementary Planning Documents have been produced that consider aspects of design, conservation and landscape for many areas of the District. These documents identify the special qualities and features that distinguish one place from another. The High Quality Places SPD supplements Local Plan policies and identifies design criteria against which planning applications will be assessed, and encourages high quality design which takes into account local distinctiveness and sustainable design principles.
- 6.4.12 The Winchester District Landscape Character Assessment identifies key characteristics throughout the District. Important features and characteristics are identified in the various Conservation Area Character Appraisals, Village Design Statements (VDS), Neighbourhood Design Statements (NDS) and Local Area Design Statements (LADS) that have been prepared for parts of the District. Developments should consider the characteristics identified in these and other documents dealing with local character and have particular regard to their planning guidelines.
- 6.4.13 Open areas that form part of the setting for developments may comprise areas of open space formally identified for their amenity or recreation value, referred to in Policy DM5 and shown on the Policies Map where they are within settlement boundaries. However, smaller areas, important spaces outside built-up areas, and unidentified spaces may be locally important when considering the development of particular sites.
- 6.4.14 Important public views and skyline features may already have been identified in documents such as those referred to above. The Winchester City and its Setting document identifies the particular elements that form Winchester's special character, including views and slopes, and Policy WIN3 is also relevant in Winchester. The contextual analysis carried out as part of a planning application should indicate any views or features of local significance that have not already been identified.
- 6.4.15 Heritage and landscape policies (e.g. Policies CP20, DM25 and DM27) contain more detail on the particular considerations and features that form part of Conservation Areas, historic townscapes and landscapes and heritage features within the wider landscape. These range from international and national designations to locally important undesignated landscapes and features and should not be adversely affected by development.
- 6.4.16 Areas of ecological importance also range from internationally and nationally designated areas to local designations. The biodiversity of these areas should not be adversely affected by development and Policy CP18 (Biodiversity) provides more detail of how proposals will be considered in relation to biodiversity.

- (i) existing buildings, structures, apparatus and/or sites are shared where technically possible and where such sharing would minimise visual harm;**
- (ii) the impact of the apparatus and any associated development is minimised by appropriate routing, siting, materials and colour, particularly where development would affect heritage assets or sites of ecological importance;**
- (iii) where viable, all cables and pipelines are placed underground, having regard to any archaeological or ecological constraints;**
- (iv) associated development, such as access routes and peripheral development such as cabinet housings, fencing, lighting and signage is kept to a minimum and suitably designed;**
- (v) where appropriate, a satisfactory landscaping/restoration scheme is included, including provision for management;**
- (vi) the development will operate within International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for exposure to health risks.**

Landscape

6.4.57 Developments in or adjoining rural areas need to take account of their location. If the principle of the development is acceptable, the main consideration is the impact on the rural character. There may be impacts from visual intrusion, physical effects on the landscape and effects on the tranquillity of the area.

6.4.58 Policy DM15 (Local Distinctiveness) details the need to take account of the local qualities and features that contribute to the local distinctiveness of the area. This includes characteristics of the surrounding landscape and features such as green and blue infrastructure. The Winchester District Landscape Character Assessment sets out the key characteristics and strategies for the landscape character areas in the District. In the rural area, proposals may need to be subject to landscape sensitivity assessment, in terms of their impact on the rural character of the landscape and the key local qualities that provide the sense of place.

6.4.59 The introduction of urban and domestic elements, such as large gates and forms of enclosure, significant areas of hard landscaping, structures for lighting and security measures can detract from the special qualities of the countryside. Similarly, the removal of particular features or elements of landscaping such as walls, fences or other structures constructed in the local vernacular, or landscape features such as bunds and ditches, water features, hedgerows and trees can detract from the rural character.

6.4.60 The nature of the development may lead to intensification of uncharacteristic use in the area. Noise and lighting pollution may be more noticeable in rural areas due to the relative tranquillity of the surroundings. The rural character

and tranquillity of the area will be taken into account when assessing the appropriateness of developments that may give rise to pollution.

- 6.4.61 Traffic intrusion may adversely affect the character of the area due to numbers of trips and the type of vehicles (e.g. heavy goods vehicles). The suitability as well as the capacity of rural lanes should also be considered, as physical re-modelling of rural roads and introduction of signage, visibility splays and entrances necessary for the development may have an unacceptable impact on the landscape and rural character. Rural lanes are a particular characteristic of the District that have historic as well as landscape significance.
- 6.4.62 Domestic extensions and ancillary buildings should be well related to the existing building. Extensions should generally follow the style of the original building in respect of proportions and positioning of features such as windows and doors, and may replicate features of the original building in their size, position and use of materials (unless it's existing character is not worthy of retention). Proposals for annexes or other ancillary buildings which could be subject to future proposals for conversion to independent dwellings will be determined having regard to Policies DM1 and DM11, which resist housing development outside settlement boundaries other than for essential rural workers.
- 6.4.63 The use of modern materials and styles is not ruled out, even in conservation areas, provided the character of the area is maintained and enhanced and the visual impact is carefully considered.

Policy DM23 – Rural Character

Outside defined settlement boundaries, development proposals which accord with the Development Plan will be permitted where they do not have an unacceptable effect on the rural character of the area, by means of visual intrusion, the introduction of incongruous features, the destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment.

The following factors will be taken into account when considering the effect on the rural character and sense of place:

Visual - intrusion should be minimised, including the effect on the setting of settlements, key features in the landscape, or heritage assets. The cumulative impact of developments will be considered, including any ancillary or minor development that may occur as a result of the main proposal.

Physical – developments will be encouraged to protect and enhance the key characteristics of the landscape and should avoid the loss of key features or the introduction of elements that detract from the special qualities of the place. Any re-modelling of the landscape will also be taken into account.

Tranquillity – developments should not have an unacceptable effect on

the rural tranquillity of the area, including the introduction of lighting or noise occurring as a result of the development, taking account of the relative remoteness and tranquillity of the location. New lighting will generally not be permitted in unlit areas and the type, size, design and operation of any lighting may be controlled where necessary by the use of conditions.

Developments should not detract from the enjoyment of the countryside from the public realm or public rights of way.

The volume and type of traffic generated by the development will be assessed along with the ability of rural roads to accept increased levels of traffic without alterations that would harm their rural character.

Domestic extensions should be proportionate in size to the existing dwelling and generally be subordinate to it, as should annexes and other ancillary development. Extensions should generally reflect the character of the existing dwelling unless the existing character is not considered worthy of retention. Replacement dwellings should not be disproportionately larger than the one being replaced (see policy DM3).

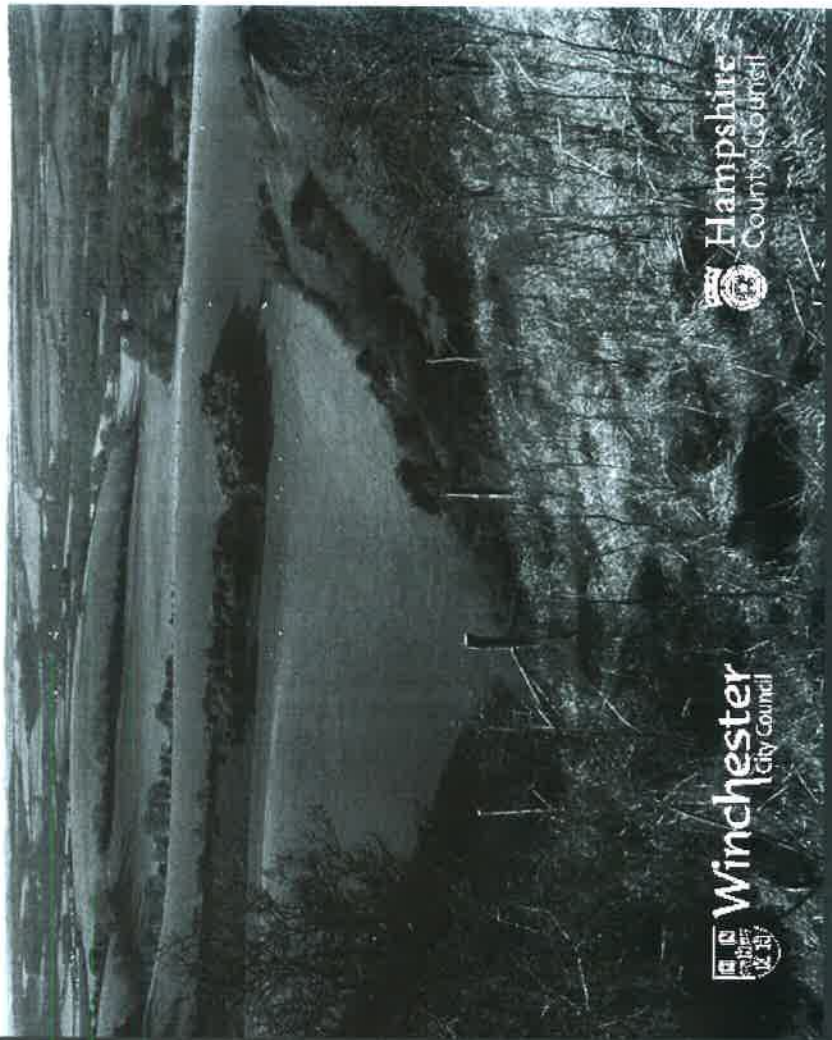
- 6.4.64 Developments should not result in the loss or deterioration of irreplaceable habitats, including ancient woodlands and the loss of aged or veteran trees found in ancient woodland. Proposals should indicate how they will safeguard the quality and appearance of special natural features and their setting, to retain visual amenity, biodiversity and heritage value.
- 6.4.65 'Special trees' include ancient or veteran trees, those which are outstanding because they provide important habitat, are the biggest of the species, or are notable trees in their local environment (e.g. because they are large by comparison with other trees around them). Trees may also be considered as special where they are linked with an important historic event or have cultural significance.
- 6.4.66 Ancient trees - including hollow and pollarded trees - have biodiversity, heritage, cultural or amenity value which cannot be replaced by new planting. Similarly, important hedgerows are identified as those of significant archaeological, historical, wildlife or landscape value that form an intrinsic part of local landscape and townscape character.
- 6.4.67 Where development may impact on the features outlined in this policy, applicants should undertake surveys to identify the extent and condition of the features and demonstrate how their proposals enhance these features or minimise impact upon them, via adequate mitigation. Conditions and/or planning agreements may be sought in order to preserve the special qualities of these features in the long term.

Volume 1 *Main Document*

Landscape Character Assessment

WINCHESTER DISTRICT

19

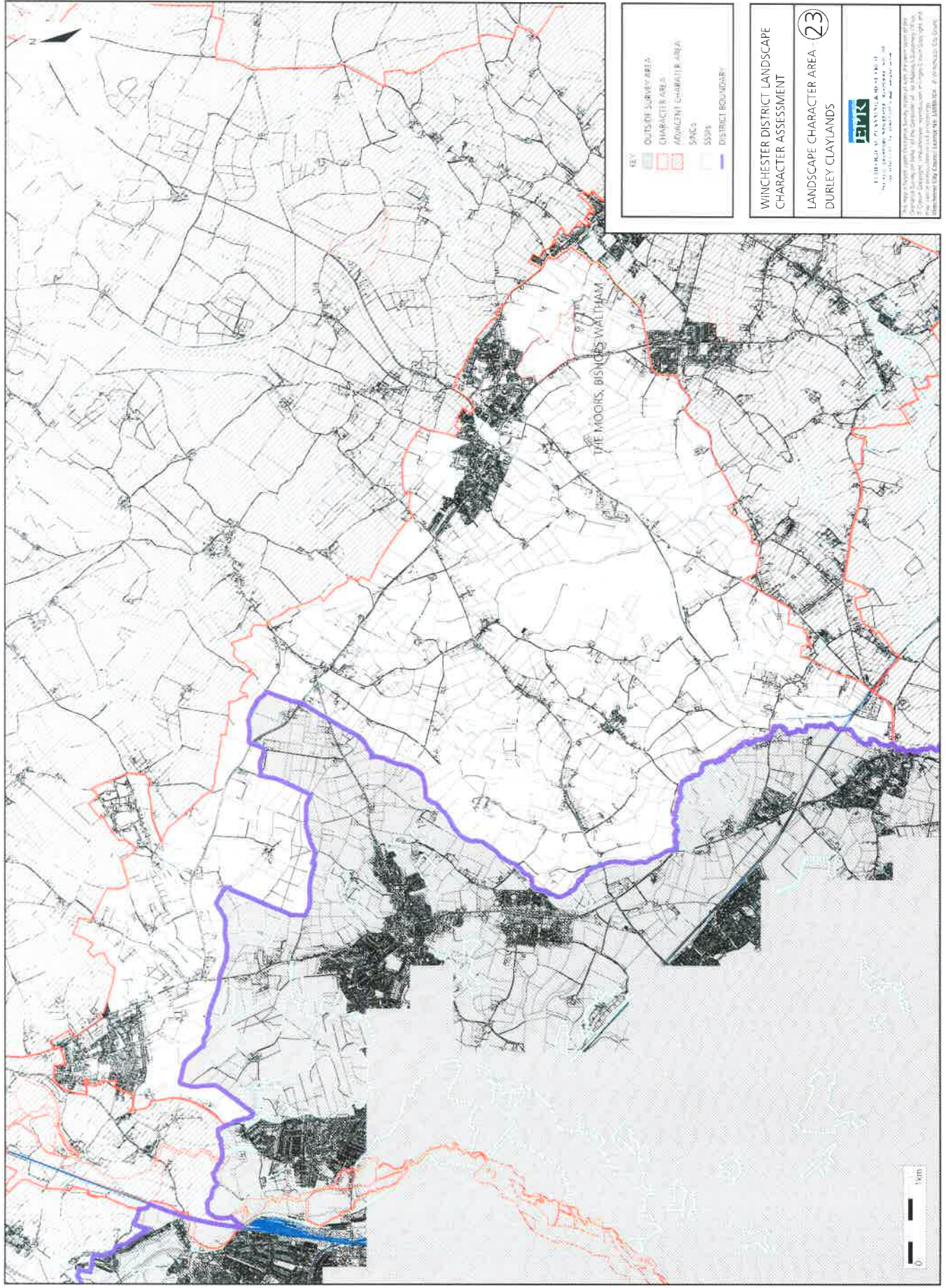


 Winchester
City Council

 Hampshire
County Council

MARCH 2004

Map 23. Landscape Character Area - Durley Claylands





Curdrige and Curbridge

VILLAGE DESIGN STATEMENT



Ribbon housing



Chapel Lane



Outlands Lane



Gordon Road

Outlands Lane and Tebourba Way

Outlands Lane contains a wide range of styles. Here are chalet bungalows, Edwardian houses, mock Tudor houses, modern semi-detached houses and council housing.

The lane has no pavements and generally has a spacious feel, narrowing as the lane approaches the bridge over the Portsmouth to Eastleigh railway line. Although the housing styles vary greatly, they blend well together.

Chapel Lane

This is a pleasant thoroughfare consisting of medium to large detached housing mostly built in the last 35 years.

There are some houses which date back to the last century. Most houses are two storeys, some of red brick, others rendered. In contrast is the Royal British Legion building of corrugated sheet construction. Chapel Lane has no pavements, and no roadside parking facilities.

Lake Road and Hillside

Both are unadopted roads off Kitnocks Hill. Flooding, at Lake Road's junction with the A334, is a problem. Housing is mixed and many properties are set well back from the lane.

Hillside comprises a collection of a dozen or so older cottages which have been extended and modernised.

Blind Lane

Blind Lane off Calcot Lane was once the track to Durley Halt on the dismantled railway between Botley and Bishops Waltham. There are just three houses enjoying some of the best views in the village.

Gordon Road

Gordon Road is a cul de sac, consisting of 1920s detached and semi-detached houses with a handful of more recent housing. As with all the recent development in Curdridge, the most recent houses in Gordon Road are large with 4/5 bedrooms. The road has pavements on both sides with roadside parking. The style of housing is of the twenties and thirties design. Red brick construction dominates. Nearly all the houses are two storeys.

DECLARATION

I, Grant William Atkinson of 5 Hillside, Kitnocks Hill, Curdridge, Southampton SO32 2HU DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. I was born on 29th November 1962. I make this declaration in support of the appeal that is being made to the Secretary of State for Housing, Communities and Local Government on my behalf by Robert Tutton Town Planning Consultants Limited against the Enforcement Notice that was served by Winchester City Council on 3rd March 2020 regarding an alleged '...material change of the use of the Land from agriculture to residential amenity land' in respect of 'Land to the rear of 5 and 6 Hillside, Kitnocks Hill, Curdridge, Southampton, Hampshire SO32 2HJ' - said land is shown edged red ('the red land') on the plan (GWA.1) attached hereto. This is a supplement to the Declaration that I completed on 2nd August 2019 and records my particular recollections of the matters raised by Section 5 of the Enforcement Notice regarding the southeast end of the Land.

2. My wife Jacqueline and I purchased 'the red land' to the rear of our home in July 2010 and, a month later, laid a concrete base for a discreet, removable washing line. A modest stable block already stood in the southeast corner of the land when we acquired it, so I erected an extension at its southwest elevation in May 2011, for use as a log store and garden room. A block-paved hardstanding was already in place beside the old stable block in 2010, so I marginally extended it in April 2011. A modest greenhouse was also erected at that time beside the northeast boundary, for the propagation of fruit and vegetables and a small vegetable patch to its southwest completed the scene. Between May 2014 and June 2015 I laid a patio near the southwest boundary of the land. Lights were already in place inside the old stables when the land was acquired but the wiring needed replacement and new low-level lighting was installed in April 2013. A spot-light was fitted to the northwest corner of the old stable block (facing up the garden, towards the northwest) in April 2013 but it was replaced early in March 2020 with a lower-voltage lamp.

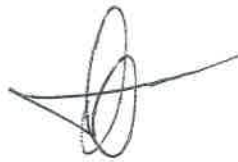
3. The facts above deposed come within my own knowledge and I MAKE this solemn declaration conscientiously, believing it to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

DECLARED at Red House St in Hampshire

This 13th day of March 2020

Before me, Henry Mundy Solicitor

Henry Mundy, Solicitor
On behalf of Chamberlains, Solicitors.





Legend

This is the plan marked 'GWA1' referred to in the Declaration of **Grant William Atkinson**

DECLARED at *Rod main for Bishop's house* in Hampshire

This.....*13th*.....day of March 2020

Before me.....*Henry Mundy*.....Solicitor

Henry Mundy, Solicitor
On behalf of Chamberlains Solicitors