

## COMMITTEE REPORT

APPLICATION NO.	22/01933/FUL
LOCATION	<b>Land North of Winchfield Court Pale Lane Elvetham Hook Hampshire</b>
PROPOSAL	Erection of a detached five-bedroom dwelling, garage and associated works
APPLICANT	Mr and Mrs R Kite
CONSULTATIONS EXPIRY	18 November 2022
APPLICATION EXPIRY	22 December 2022
WARD	Hartley Wintney
RECOMMENDATION	<b>Refusal</b>



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## **BACKGROUND**

This is a full planning application for erection of a detached five-bedroom dwelling, garage and associated works.

An appeal against non-determination of this application has been submitted by the applicant. Confirmation is awaited from the Planning Inspectorate that the appeal is valid. Once the appeal is valid, the jurisdiction to determine the application lies with the Planning Inspectorate.

Members are asked to indicate what resolution they would have made on this matter to assist with the appeal process.

## **DESCRIPTION OF THE SITE**

The application site comprises an area of land approximately 0.15 hectares on which the former mortuary building from the original Winchfield Hospital site is located.

The application site is north of and adjacent to Winchfield Court, which includes the original Winchfield Hospital buildings that have been converted to housing. The application site forms part of a parcel of land which contains ancillary structures for the former hospital including the former sewage works and mortuary building. The boundary with the residential uses Winchfield Court is denoted by a post and rail fence and the land is open space, see planning history below.

The former mortuary building is a single storey building and is of similar architecture to the former main hospital building. The building is relatively modest 5.1 metres high and 4.4 metres by 9 metres. The historic use of the building defines the mortuary building's location, set approximately 60 metres to the north of the original hospital building and of a much smaller scale.

To the west of the site is Pale Lane, which is a rural lane, which does not have a footpath or street lighting in this section. Land to the east of the application site is within the Applicant's control.

In this part of Pale Lane there are several detached residential properties in well-treed curtilages. The western boundary of the site is verdant.

## **PROPOSAL**

The application seeks planning consent for the erection of a detached five-bedroom dwelling with double garage. The former mortuary building would be converted into a store. The proposal is for a self-build dwelling.

## **RELEVANT PLANNING HISTORY**

21/02286/OUT Erection of two detached 3-bedroom dwellings and associated garages.  
Refused 07/01/2022

There were 6 reasons for refusal:

1. The proposed development, by reason of its location outside the designated settlement boundary, its siting and configuration, would directly conflict with the adopted spatial strategy set out in policies SS1 and NBE1 of the adopted Hart Local Plan: Strategy and Sites 2016- 2032.
2. The site is located within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA). In the absence of any evidence that the test of no alternatives under Regulation 62 of The Conservation of Habitats and Species Regulations 2017 can be satisfied, or evidence that there are grounds of overriding public interest, the proposed development, either alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the TBHSPA. As such, the proposed development is contrary to Saved Policy NRM6 of the South East Plan and Policies NBE3 and NBE4 of the Hart Local Plan (Strategy and Sites) 2032.
3. The proposed development, by reason of its location outside settlement boundaries, domestic character/appearance and scale, would be out of keeping and would materially affect the visual natural landscape that contributes to the intrinsic open/natural setting and character of this section of the countryside. As such the proposal would be contrary to policies NBE1 and NBE2 of the adopted Hart Local Plan: Strategy and Sites 2016-2032, saved policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 and National Planning Policy Framework.
4. In the absence of sufficient information in relation to ecology, it has not been demonstrated that the proposed development would conserve and enhance biodiversity. As such, the proposal is contrary to Policy NBE4 of the Hart Local Plan (Strategy and Sites) 2032 and the aims of the National Planning Policy Framework.
5. By virtue of scale, architecture and character of the proposed development it is deemed that it would not integrate into the established character of the area and would not be sympathetic to the appearance, layout and scale of the locality. The proposed development would not sustain or improve the character of the landscape and would fail to respect the character of the natural environment. As such, the proposal would be contrary to the requirements of Hart Local Plan (Strategy and Sites) 2032 Policy NBE9, Saved Policy GEN1 National Planning Policy Framework (2021).
6. Insufficient information has been submitted with the application to allow the Local Planning Authority to assess the acceptability of the proposed access within the application. Specifically, appropriate visibility splays and detailed design drawings that demonstrate the access road is sufficient to allow vehicles to safely access and egress the development site. As such, the proposal conflicts with the requirements of policy INF3 of the Hart Local Plan 2032 and saved policy GEN1 of the Hart Local Plan 2006.

22/00115/PREAPP - Redevelopment of existing redundant buildings to provide a five-bedroom family house. Opinion Issued 15/02/2021

19/01988/PREAPP - Erection of 6 dwellings, associated access, parking and landscaping. Opinion Issued 23/10/2019

17/02621/FUL - Erection of 17 no. dwellings together with associated access, parking, landscaping and amenity space. Refused 18/06/2018 , appeal dismissed 22/07/2019

17/02620/FUL - Erection of 10 no. dwellings together with associated access, parking, landscaping and amenity space. Refused 18/06/2018, appeal dismissed 22/07/2019

17/00544/PREAPP - 17 dwellings, associated access, parking and landscaping. Opinion Issued 29/06/2017

14/00707/MAJOR - Demolition of existing structures and erection of 18 dwellings comprising 9 two bedroom houses, 7 three bedroom houses and 2 four bedroom houses with associated access, parking and landscaping. Refused 20/06/2014

96/00865/OUT - Residential development comprising up to 21 dwellings with associated access, parking, open space and landscaping and recreational facilities. Refused 18/12/1996, appeal dismissed

### Winchfield Court

85/12321/FUL Conversion of existing buildings and additional development to provide a total of 33 dwellings. Granted 30/08/1985 subject to a legal agreement (section 52) that the land outlined in red (including the application site) without the consent in writing of the Council be used for any purpose other than as an area of open space.

### Enforcement Notice

21/00003/OPERT3. Enforcement Notice: Without Planning Permission the change of use of the Land to use for the stationing of a caravan used for residential accommodation and for storage of waste and building materials. Enforcement Notice served 7<sup>th</sup> May 2021, outlining material change of use and operational development undertaken without planning permission.

Appeal with Planning Inspectorate in progress: Hearing procedure.

## RELEVANT PLANNING POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant Development Plan for the District includes the Hart Local Plan (Strategy and Sites) 2032 (HLP32), saved policies from the Hart District Local Plan (Replacement) 1996-2006 (HLP06), Saved Policy NRM6 of the South-East Plan 2009 (SEP) and Winchfield Neighbourhood Development Plan (WNP) 2032 made April 2017.

Winchfield Parish Council have consulted on a pre-submission draft of their Neighbourhood Plan.

The NPPF 2021 sets out a presumption in favour of sustainable development at paragraph 11. For decision-taking on individual proposals, at paragraph 11d it sets out the scenarios where this presumption is dis-applied, including where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (this includes habitats sites and designated heritage assets).

### Hart Local Plan (Strategy and Sites) 2032

SD1 Sustainable Development  
SS1 Spatial Strategy and Distribution of Growth H1  
Housing Mix  
H2 Affordable Housing H3  
Rural Exception Sites  
H6 Internal Space Standards for New Homes NBE1  
Development in the Countryside  
NBE2 Landscape  
NBE3 Thames Basin Heaths Special Protection Area  
NBE4 Biodiversity  
NBE5 Managing Flood Risk  
NBE8 Historic Environment  
NBE9 Design  
NBE10 Renewable and Low Carbon Energy NBE11  
Pollution  
INF1 Infrastructure  
INF2 Green Infrastructure INF3  
Transport

### Hart District Local Plan (Replacement) 1996-2006 'saved' policies

GEN1 General Policy for Development GEN 2  
General Policy for changes of use

CON8 Trees, Woodland and Hedgerows: Amenity Value

### Winchfield Neighbourhood Development Plan 2032

A1 Size and Location of New Developments  
A2 Residential Car Parking Spaces, Gardens and Utility space A3  
Height and Type of Housing  
A4 Design A5  
Density  
B1 Rural Look and Feel - Significant Views and Topography B2  
Rural Look and Feel – Lanes and Public Rights of Way C1  
Local Ecology, Wetlands and Flood Risk Areas  
E1 Development Access

### The South East Plan - Regional Spatial Strategy for the South East 2009

Saved Policy NRM6 Thames Basin Heaths Special Protection Area

### Other Material Considerations

National Planning Policy Framework (NPPF) (2021)  
National Planning Practice Guidance (PPG) National  
Design Guide (NDG)  
Thames Basin Heaths Special Protection Area Delivery Framework (2009)  
Hart District Council Planning Technical Advice Note: Cycle and Car Parking in New  
Development (August 2022)  
Hart District Planning Technical Advice Note: Biodiversity Hart  
District Landscape Assessment (HDLA, 1997)  
Hart Landscape Capacity Study (HLCS) Hart's  
Strategic Flood Risk Assessment 2016 Hart's  
Climate Change Action Plan  
Hart's Equality Objectives for 2021-2023

## **CONSULTEE RESPONSES**

### **Winchfield Parish Council**

The land in question has the benefit of a Section 52 agreement requiring it to be retained as open space which was entered into by the then landowner when permission was granted in 1985 to convert Winchfield Hospital to residential use and renamed Winchfield Court. The purpose of the Section 52 agreement completed on 19 August 1985 was to create a restrictive covenant binding the use of the adjoining land as an area of open space. A specific obligation of the agreement was that not without the consent in writing of the District Council could the landowner cause or permit the site to be used for any purpose other than as an area of open space. Hart District Council has maintained this position throughout and has the full support of the Parish Council. We understand that there is an important difference between the

old style Section 52 agreements and the Section 106 agreements entered into before the operative provision of the 1991 Act and new Section 106 agreements entered into after October 1991. The 1991 Act did not amend the basis upon which the old Section 52 agreement could be changed. Winchfield Parish Council is of the firm opinion that in practical terms this Section 52 agreement cannot be amended except by the agreement of the District Council or by application to the Lands Tribunal. Moreover there is no effective time period that prevents the enforceability of the restrictive covenant. A substantive disadvantage would arise for the owners of Winchfield Court if the adjoining land was used and developed outside the terms of the restrictive covenant.

The Hart District Local Plan adopted in 2020 has no requirement for specific development in Winchfield, indeed there is a sufficiency of planned housing supply lasting in excess of 9 years in the District.

This application is proposed on land which is outside the settlement boundary of Winchfield Court and is not on land defined in the NPPF as 'previously developed land'.

### **Environmental Health (Internal)**

Odour impact assessment - Further information required

In terms of the proximity of the existing sewerage treatment plant to the proposed residential premises, an odour impact assessment may be required to investigate the site suitability and the potential odour impacts from the plant on the proposed development. The report should also seek to clarify whether the proposed dwelling is located at sufficient distance from the sewerage plant to prevent odour nuisance. The main purpose of this report is to carry out an assessment to determine if the odour impact from the existing sewerage treatment plant is likely to have any detrimental impact on the development.

See 'other matters' section of main body of report for officer response.

Environmental Health Officer has reviewed the Groundsure report in the context of this application, and reviewed planning history including 21/02286/OUT. Overall, considering the site history and the intended use, recommends a full contaminated land condition.

### **Natural England**

Designated sites [European] - no objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites).

### **Drainage (Internal)**

No objection subject to condition

To ensure compliance with the relevant paragraphs and policy in the NPPF and Local Plan a condition that development shall not begin until a surface water drainage scheme

for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development be submitted and approved in writing.

The scheme should include:

- 1) Where infiltration is proposed, full infiltration tests in accordance with BRE 365 including groundwater strikes.
- 2) Detailed drawings of the proposed drainage system including details as to where surface water is being discharged to.
- 3) Calculations confirming that the proposed drainage system has been sized to contain the 1 in 30 storm event without flooding and any flooding in the 1 in 100 plus climate change storm event will be safely contained on site.
- 4) Calculations showing the existing runoff rates and discharged volumes for the 1 in 1, 1 in 30 and 1 in 100 storm events and calculations for the proposed runoff rates and discharged volumes for the 1 in 1, 1 in 30 and 1 in 100 plus climate change storm events. To be acceptable proposed runoff rates and discharge volumes must be no higher than existing.
- 5) Provision of a Maintenance plan setting out what maintenance will be needed on the drainage system and who will maintain this system going forward.

Recommends an informative, permission from Thames Water will be required before the proposed foul drainage is connected into the public sewer network.

### **Hampshire County Council (Highways)**

No objection

Given nature and context of the site, it is not considered that this proposal would lead to any material detrimental impact upon the public highway in regard to Traffic Generation.

The works on highway land need to be delivered by suitable highway licence and the Highway Authority recommends that the applicant applies for an appropriate licence more information can be found here [Apply for a licence to excavate the highway](#).  
Hampshire County Council ([hants.gov.uk](http://hants.gov.uk))

### **Ecology Consult (Internal)**

Further information required.

The preliminary ecological appraisal has identified that the outbuilding has features that could support bats that could be directly impacted by the proposals, and subsequently an emergence survey was due to be undertaken within the appropriate season, however no further information has been received.

In addition, the site has suitable habitat for reptiles and a presence/absence survey is recommended but no further information has been submitted.

The further survey work cannot be conditioned as it must be carried out in advance of



any permission being granted. Any mitigation or licensing requirements resulting from the further survey work can be conditioned.

Recommends that the further survey work and results should be carried out before permission is granted.

### **Streetcare Officer (Internal)**

Hart District Council operates a kerbside waste collection service. This is operated via wheeled containers, which must be left adjacent to the nearest adopted highway for collection on the specified waste collection day.

The proposed development will be required to leave wheeled containers on Pale Lane for collection by 0630hrs on the specified collection day and removed from the bin collection point and returned back to the property as soon as possible following collection.

### **PUBLIC COMMENTS**

10 public representations received in support of the proposal, summarised as follows:

- The proposal is for an individual dwelling rather than an 'estate'
- Design in keeping
- Suitable scale
- Family sized dwelling
- Additional dwelling
- Works to existing building and site taken place
- Brownfield development / Previously Developed Land
- Complements Winchfield Court
- Open Space
- Improvement to previous proposals
- Design
- Applicants
- Enhance character of the area
- Lack of suitable alternative uses

15 representations received in objection to the proposal, summarised as follows:

- Insufficient information provided on the proposed ecology area
- Insufficient information on proposed dwelling
- Section 52 agreement for land to be Open Space
- Pre-application advice response 2021
- Countryside
- Not previously developed land
- Not on brownfield register
- Unsustainable
- The Council has a five-year housing land supply
- Planning history
- Surrounding historic buildings (Non Designated Heritage Assets)
- No description of associated works

- Land not allocated for development
- Contrary to Development Plan
- Works undertaken to existing building
- Flooding
- Traffic Impact
- Victorian Society previously objected to development of the land
- No need
- Insufficient car parking - including Neighbourhood Plan policy
- Sustainability
- SPA Mitigation
- Impact on local landscape
- Applicants

### Winchfield Court Residents Association

Object.

- Planning History
- The Council has a five-year housing land supply
- No pressing need
- Beyond settlement boundary (history during Local Plan process)
- Section 52 agreement
- Neighbourhood Plan policies
- Previously Developed Land
- Not on brownfield register
- Sustainability
- Size of dwelling proposed
- Need for the use of the private motor car
- Accessibility of train station and other shops and services
- Proposals do not meet the requirements of NBE1
- Impact on the landscape
- Thames Basin Heaths Special Protection Area
- Allocation of SANG land
- Further information on biodiversity
- Surface water flooding
- Neighbourhood Plan Parking Policy
- Historic Environment

## **CONSIDERATIONS**

### Principle of Development

The purpose of the planning system is to help achieve sustainable development and applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Current Government Guidance, contained in the National Planning Policy Framework (NPPF) confirms that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are three dimensions

to sustainable development: economic, social and environmental.

Paragraph 68 of the NPPF confirms that there should be a clear expectation that the sites identified in the development plan should make adequate provision to meet housing supply needs. Paragraph 15 of the NPPF confirms the principle that planning should be genuinely plan-led unless material considerations indicate otherwise.

The starting point for determination of any proposal is the Development Plan, which is set out above. The application site is located within the countryside as designated within the Hart Local Plan 2032 (HLP32) proposals map.

HLP32 Policy SS1 (Spatial Strategy and Distribution of Growth) states that development will be focused within defined settlements, on previously developed land in sustainable locations and on allocated sites.

In terms of the requirements of Policy NBE1, 11 criteria a) to n) are set out in this policy to allow development in the countryside. This proposal would not meet any of the exceptional criteria. Policy NBE1 permits development in the countryside where it is beneficial to the rural area and people that work and live there. Countryside development is subject to more strict assessment and proposals would have to demonstrate that a countryside location is both necessary and justified through one or more of the permissible criteria.

When it comes to housing in the countryside, Policy NBE1 is clear on the instances that would allow housing (subject to meeting other policies), these are:

- housing for a rural worker where there is a proven essential need;
- affordable housing (subject to requirements of adopted policy H3);
- specialist housing (subject to requirements of adopted policy H4);
- replacement dwellings.
- housing of exceptional or truly innovative design which significantly enhances its immediate setting and is sensitive to the local character.

Policy A1 of the WNDP provides guidance on the size and location of new development in Winchfield. In the third paragraph the policy states "Appropriate redevelopment of brownfield sites will be supported in preference to greenfield sites."

The proposal is not stated to be either a rural exception site (criterion e of NBE1) or for specialist housing (criterion f) of NBE1).

#### Status of the land

Criterion j) of Policy NBE1 of the HLP32 allows for development located on suitable previously developed land and Policy A1 of the WNDP 2032 refers to redevelopment of brownfield sites. It is therefore important to consider whether the site would constitute appropriate brownfield, or, previously developed land.

Reference should be given to the 1997 and 2019 appeal decisions made by the relevant Inspectors in respect of previously developed land. Both inspectors found

the remains of the physical structures on site had blended into the landscape and it was not clear as to what extent the structures may have been removed.

In the 2019 appeal decisions, the Inspector identified whether those proposals would result in an acceptable form of development having regard to development plan policy and the prevailing character of the area as a 'main issue'. Whilst the HLP32 now forms part of the development plan, when the appeals were determined in June 2019 the application site was located outside of any defined settlement boundary and was not an allocated site. There has been no material change in terms of boundaries of settlements and what is considered to be countryside.

The revised NPPF (2021) provides a definition of Previously Developed Land which is replicated within the HLP32 glossary as follows:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

This definition of PDL in the 2021 NPPF is the exact same definition set out in the 2019 version of the NPPF. There has been no material change in terms of PDL.

In 2019, the appeal Inspector considered the wider site against the above definition, stating the following:

"Policy A1 (of the WNP) also includes a preference for the redevelopment of brownfield sites, but the appellant's argument that the appeal site is one such is unconvincing. The existing mortuary building would not be redeveloped, rather it would be retained within both schemes. The other structures are less substantial, substantially overgrown with vegetation and critically only cover a small part of the extensive site, the overwhelming majority of which comprises trees, scrub and rough grassland with no evidence of previous buildings. The site as a whole therefore falls outside the definition of previously developed land and this factor is accordingly of no material assistance to either appeal." (Appeal decision Letter dated 22.07.2019 paragraph 11)

It is noted that the current proposal is for a single dwelling. Policy A1 of the WNDP relates to the size and location of new developments, it states that as a general principle new development should respect the scale of the village and should not result in a development of more than 7 dwellings. The policy recognises that appropriate redevelopment of brownfield or previously developed land (PDL) will also be supported. In this case the scheme proposes a single dwelling and is not considered to be PDL.

The structures referred to are located on land within the appeal site and within this application. It is clear from the Inspector's assessment above that the site as a whole is considered to fall outside of the definition of previously developed land. This site has been reduced in size over the site proposals which were appealed, due to the sale of the land into smaller plots.

The wider planning unit is subject to an Enforcement Notice to remove, reduce or demolish any works that have been undertaken without the benefit of planning permission, it is noted that an appeal is pending.

However, there have been no fundamental changes to the application site between the appeal decisions and the current submission. Whilst the mortuary building has had its roof repaired there has been no fundamental changes to the application site since the 2019 appeal. The footprint and form of the building have remained the same. There is no evidence on which to reach a different conclusion to that of the appeals has been provided. Attention is drawn to the following sentence in paragraph 11 of the 2019 appeal decision in which the Inspector clearly finds that "the site as a whole ... falls outside the definition of previously developed land".

Whilst the 2019 appeal decision relates to a wider parcel of land and considered a larger number of dwellings, this is still relevant. The application site forms part of a wider planning unit, which was the subject of the 2019 appeal. Similarly in the 2019 appeals the single storey mortuary building was proposed to be retained, however its 38.5 square metres footprint on a 0.15-hectare site is relatively small on this largely open site.

Under the Hart District Strategic Housing Availability Assessment November 2015, the land was designated under the identifier SHL34. The land was categorised as Grade 3 Agricultural Land and assessed as 'not currently developable' (SHLAA Appendix I: List of all SHLAA sites). This classification of agricultural land is determined by Natural England, in its role as executive non-departmental public body advising the government on the natural environment. Agricultural Land Classification (ALC) is graded between 1 and 5. The Best and Most Versatile agricultural land is graded between 1 and 3a. Grade 3 is good to moderate quality.

Paragraph 125 of the HLP32 refers to the Strategic Housing Market Assessment (SHMA), which is a study to identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period. Furthermore, paragraph 127 of the HLP32 sets out that "an appropriate housing mix for an individual development site will also depend on site-specific factors, such as its location and the local density and character of housing in the neighbourhood which will determine the eventual mix of housing size, types and tenures to be provided. Applicants should explain their proposed housing mix using this evidence and in the context of the policy criteria." Policy H1 of the HLP32 that proposals for new homes should provide an appropriate mix of dwelling types and sizes having regard to the most up to date evidence on housing need, and the size, location and characteristics of the site and surroundings.

The proposed dwelling would result in a net additional dwelling in the countryside. The proposal does not involve the conversion of an existing building to an

appropriate use. The proposals include the conversion of an existing building, but this is for ancillary accommodation to a proposed new dwelling. The proposal does not relate to an application site which is entirely previously developed land, and the proposal is not considered of exceptional quality or truly innovative design. The proposal is not for affordable or specialist housing. Accordingly, proposal does not fall within the remit of potentially acceptable development in the countryside pursuant to Policies SS1 or NBE1 of the HLP32.

#### Location, accessibility and sustainability

In this case, the site is set in rural surroundings, whilst the application sits just outside of the defined Settlement Boundary associated within Winchfield Court. Winchfield Court lies well away from the distinct settlement of Winchfield Hurst about 500 metres to the west and there is further housing near Winchfield train station about 2.5km away. The parish consists of dispersed groups of housing in a rural setting rather than having a single main settlement.

The 2019 appeal decision also refers to relative accessibility of the site and is of relevance:

"The settlement (Winchfield Court) comprises a small enclave of housing set in rural surroundings, accessed by rural lanes with no footways or street lighting, and with only a public house within easy walking distance. The nearest primary school is about 1.5 km to the south, the village hall and station about 2.5 km to the west, and other facilities in Fleet about 2.5 km to the east, but these are all reached along rural lanes so in practice residents are likely to rely on the private car."  
(Appeal decision Letter dated 22.07.2019 paragraph 11)

The application site is not considered 'isolated' in NPPF terms (paragraph 80) given the adjoining residential development at Winchfield Court.

It is noted that in determining appeals (Refs. APP/N1730/W/20/3246394, APP/N1730/W/20/3250207) for land north of Church Lane, Dogmersfield the appointed Planning Inspector found that the appeal site in that case at paragraph 9 that the location "...lacks street-lights or a footway and the village is not served by a bus service. These factors when combined would reduce the likelihood of future occupiers walking or cycling to the limited local services. As a result, future occupiers would be largely reliant on the private car to access goods and services. This is similar to the conclusion in paragraph 11 above, that in practice residents are likely to rely on the private car.

There is a notable lack of streetlights, footways (immediately adjacent to the site), cycling would be via country lanes and the site is not served by a bus service. As such, the current proposal would not accord with the sustainable pattern of growth advanced by the Framework.

The site is in a location with poor accessibility for access to day-to-day services. As such, neither proposal would accord with the sustainable pattern of growth advanced by the Framework.

The site is not therefore considered a sustainable location or appropriate for the proposed use. There has been no significant change in policy since the 2019 appeal decision to consider the proposed development to an appropriate exception to development in the countryside. Whilst the NPPF was updated between 2019 and 2021, the approach to rural restraint has not changed.

Policy NBE1 of the HLP32 has been adopted but the proposed development does not form one of the exceptions. Nothing within the current application overcomes the unsustainable nature of the proposed development. The emerging WNP does not propose the application site as a site for residential development.

The proposal neither aligns with the objectives of the adopted spatial strategy or the permissive countryside policies of the HLP32.

In principle, the development of this site would be contrary to prevailing Development Plan policy. The HLP32 identifies the site as being outside of any Settlement Boundary (Policy SS1) and within the countryside (Policy NBE1).

Also given the current housing land position and housing delivery in the District, which are material considerations; the need for additional homes through windfall sites, such as the subject site, is therefore not acute and although they help the supply of housing, there is no overwhelming reason to accept additional housing in the countryside, such as the net increase proposed in this case. Thus, the principle of development for a dwelling on the site is therefore unacceptable.

In principle, the development of this site would be contrary to prevailing Development Plan policy. The Hart District Local Plan identifies the site as being outside of a Settlement Boundary (Policy SS1), within the countryside (Policy NBE1) and within the Thames Basin Heath Special Protection Area 5km buffer (Policy NBE3).

### Landscape, Character and Visual Impacts

The NPPF states that planning decisions should recognise the intrinsic character and beauty of the Countryside (paragraph 174). Policy NBE2 of the HLP32 requires that proposals must respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes. Development proposals will be supported where there will be no adverse impact to:

- a) the particular qualities identified within the relevant landscape character assessments and relevant guidance;
- b) the visual amenity and scenic quality of the landscape;
- c) historic landscapes, parks, gardens and features;
- d) important local, natural and historic features such as trees, woodlands, hedgerows, water features e.g. rivers and other landscape features and their function as ecological networks; and
- e) it does not lead to the physical or visual coalescence of settlements, or damage their separate identity, either individually or cumulatively with other existing or proposed development.

Policy NBE9 of the HLP32 requires all development to achieve a high standard of

design and positively contribute to the quality of its local area.

Saved Policy GEN1 of the HLP06 requires development to include provision for the protection or enhancement of the District's landscape and requires development to remain in keeping with the existing character and appearance of the area.

Policy CON8 of the HLP06 sets out that trees, hedgerows and woodland can have significantly landscape and amenity value.

Policy A4 of the WNDP 2032 requires development to be in keeping with the rural environment of Winchfield and Policy A3 for new homes not to exceed two storeys and be harmonious with existing visual aspects.

Policy B2 of the WNDP 2032 sets out that proposals which adversely affect the tranquillity, rural nature and layout of existing roads, lanes, byways and footpaths will not be supported. It continues that proposals should recognise and respect the intrinsic character and beauty of the countryside.

The application site lies within the Winchfield Landscape Character Area as defined in the Hart Landscape Assessment (HLA) (April 1997). Within this character area, the application site is identified as being in a moderately enclosed landscape of mixed pasture and woodland. The area to the east and north of the application site is within the Hart Valley Landscape Character Area where the predominant landscape characteristic is that of floodplain farmland.

The immediate area is characterised by countryside and residential development in the wider area. The proposed dwelling would be two storeys. The site is viewed as a greenfield site as the mortuary building is relatively small, this is also the same when the site is viewed from public footpaths in the area. The mortuary building is intrinsically linked to the hospital site.

The site has a rural 'green' appearance, and a new dwelling would have an urbanising impact. The proposed dwelling has a relatively large footprint of 148 square metres and is two storeys, 7.9 metres tall. The scale and massing of the proposed dwelling heightens this impact. Whilst there has been a marginal decrease in the height and footprint since the pre-application submission. The proposed dwelling has significant width, 16.8 metres and is of significant height and footprint. The proposals also include a double garage and conversion of the former mortuary building to residential storage and associated development including a gravel driveway. The proposal would cause harm to the rural character of the site. This would be contrary to Policy NBE2 of the HLP32 and Policy B1 of the WNDP 2032.

This is also in the context of the application site being relatively open and the planning unit forming the setting of the former Winchfield Hospital and containing ancillary buildings. There would be demonstrable visual amenity impacts and the proposal would fail to enhance the special characteristics of this rural landscape.

The 2019 Inspector's appeal decision notes the following in considering the earlier 1997 appeal decision:



"When viewed from Pale Lane the site appears as an area of undeveloped woodland which contributes to the attractive rural character of the area. Notwithstanding the conclusions of the appellant's landscape statement, and even with the screening provided by the hedgerow boundaries, housing on the site would be readily apparent from the land and harmful to the rural character and appearance of the area."

The proposed development sits on a largely open site and would introduce a significant sized dwelling, which would significantly alter the character and appearance of the site in this rural location.

The proposal would cause harm to the rural character of the site and would be contrary to Policy NBE2 of the HLP32, Policy GEN1 of the HLP06 and Policy B1 of the WNDP32.

### Design

The NPPF 2021 emphasises the importance of good design in the built environment. Good design is a key aspect of sustainable development and indivisible from good planning. The Planning Practice Guidance (PPG) also reiterates that good quality design is an integral part of sustainable development.

Policy NBE9 of the HLP32 seeks to ensure that development achieves a high-quality design and that it would positively contribute to the overall character of the area. The NPPF also reinforces the need to promote good design in developments (paragraphs 126 and 127).

Saved Policy GEN1 of the HLP06 permits development where, amongst other requirements, the design, scale, massing, height and prominence of the proposal is in character with the local area and is sympathetic to the surroundings.

The proposal is for a generous dwelling within a generous garden. The proposed dwelling would form a distinct development from Winchfield Court, there is no proposed relationship between the layout of the proposal and that Winchfield Court. In that regard the proposal would not relate to its setting both in the context of a rural location and nearby built form. A hedgerow is noted as separating the proposal from Winchfield Court. The scale of the proposed dwelling would dwarf the mortuary building which currently reads as ancillary outbuilding of the former hospital. The proposed main dwelling and associated garage would be substantial and would dominate the character and appearance of the mortuary building. The proposed development is not considered to sufficiently respond to existing adjoining development.

The mortuary building is the first building that is viewed as you travel south along Pale Lane, the proposed development would introduce substantial built development onto the planning unit.

The proposed architecture of the scheme is generic and is not of exceptional quality. The design of the proposed new dwelling would not be dissimilar with that of a new development built at scale on new settlements and does not address or respond to the architectural qualities of the existing site mortuary building or the main hospital

building, nor does it introduce unique value.

Whilst some trees on the site have already been removed, the site remains open, and the siting of the proposed dwelling and resultant composition of built form would result in the introduction in a significant amount of built form onto the site. This would have an urbanising effect in this setting.

Overall, the design and scale of the proposed development is not high-quality and would be detrimental to the character and appearance of the local area. Therefore, the proposal fails to meet the requirements of Policies NBE2 and NBE9 of the HLP32, Saved Policy GEN1 of HLP06 and the design guidance and aims set out within the NPPF 2021.

### Heritage Impacts

Policy NBE8 of the HLP32 states that all developments should conserve or enhance the settings of heritage assets, taking into account their significance. Saved Policy GEN1 of the HLP06 permits development where, amongst other requirements, include provision for the conservation or enhancement of the District's historic heritage.

The NPPF 2021 sets out that LPAs should require applicants to describe the significance of any heritage assets affected and the level of detail should be proportionate to the asset's importance (paragraph 194). The applicant's only reference to heritage in their submitted documentation is within their planning statement where the phrase 'makes use of ... a locally listed heritage asset' is set out on pages 2 and 14.

Paragraph 194 of the NPPF is clear that as a minimum the relevant Historic Environment record should have been consulted and the heritage assets should have been assessed using appropriate expertise where necessary. The LPA cannot conclude that this has been undertaken. In Paragraph 203 of the NPPF, it is clear that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The 2019 appeal decision highlights that the old workhouse buildings although not listed are a heritage asset of local significance. This remains the case today.

The 2014 planning application which was refused (14/00707/MAJOR) included a reason for refusal relating to the mortuary building and the lack of any heritage impact assessment or appraisal of the historical significance of this building as a non-designated Heritage Asset. The building is shown on early maps and is associated with the Winchfield Hospital when it was a hospital and before that, a workhouse. It therefore has a degree of historical significance and although the hospital no longer functions it has been converted to a residential development that respects and preserves the historical significance of the overall site.

The current application seeks to retain the former mortuary building and use the space for storage associated with the proposed dwelling. The retention and re-use of the former mortuary building would in principle be a heritage benefit of the proposed development. However, there has been insufficient information provided with the application in order to assess the heritage impact of the conversion of this non-designated Heritage Asset.

As a result, this forms a separate reason for refusal on the basis of insufficient information in line with Policies NBE8 and NBE9 of the HLP32, Policy D1 of the WNDP 2032 and the aims of Section 16 of the NPPF 2021.

#### Amenity for future occupiers

The Nationally Described Space Standards (NDSS) conforms with Government aspirations to achieve better places to live. The NDSS has been adopted as part of the adopted HLP32 under planning Policy H6.

The proposed floor plans indicate five bedrooms on the first floor, all of which are shown to be double occupancy with the exception of bedroom five. The NDSS set out the minimum gross internal floor area for a two storey, five-bedroom, 8-person dwelling is 128 square metres. The proposed dwelling would be well in excess of this and meets NDSS and Policy H6 in this respect.

Policy NBE9 of the HLP32 requires proposals to take account of the health and well-being of future residents and visitors, taking an inclusive design approach with considerations as to how all potential users would use the new spaces (paragraph 303). Paragraph 130 of the NPPF 2021 requires planning decisions to ensure that developments will function well over the lifetime of the development. This aim clearly relates to use and functionality over an extended timeframe. The shape, access, layout and overall quality of external amenity space will be determined by its ability to provide functional amenity purposes for future occupiers.

Sufficient useable outdoor amenity space would be provided proportionate to the proposed dwelling. The proposed site plan indicates a rear curtilage depth of 14 metres and the shape and size of the external amenity space is considered sufficient for children's outside play, drying clothes, gardening and sitting outside, which would be expected within a private residential garden serving a dwelling of the footprint proposed.

#### Impacts upon Neighbouring Amenity

Saved Policy GEN1(iii) of the HLP06 requires proposals to avoid any material loss of amenity to neighbouring residents. The NPPF 2021 seeks to create places with a high standard of amenity including good layouts with effective landscaping for existing and future users (paragraph 130).

The proposed dwelling would be sited at sufficient distance from existing residential development for the relationship to be considered acceptable in terms of residential amenity impacts on neighbouring residential occupiers. There would be no resultant overlooking, loss of light or overbearing impacts.

## Highway Safety, Access and Parking

Paragraph 111 of the NPPF 2021 states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Policy INF3 of the HLP33 and Saved Policy GEN1 of the HLP06 require adequate access and parking (vehicular and cycle) arrangements to be provided with developments. The location and design of vehicular and cycle parking should be accessible and well designed.

Saved policy GEN1 (General Development Policy) of the HLP06 seeks to ensure that development has adequate arrangements on site for access, servicing or the parking of vehicles and does not give rise to traffic flows in the surrounding area that would have a detrimental impact on nearby properties.

Policy A2 of the WNDP 2032 requires one parking space per bedroom, plus one visitor space within each curtilage.

The Council's adopted 'Cycle and car parking in new development' Technical Advice Note (TAN) requires a five-bedroom dwelling to provide 3 allocated and 1 unallocated parking spaces.

The Applicant has confirmed that there is a right of way in perpetuity over the adjacent verge which where access to the proposed dwelling will be taken. This would result in the proposed five-bedroom dwelling taking access over an earthen verge without any engineering. The applicant has failed to demarcate the application site extending to the public highway and has also failed to demonstrate that they have the requisite permissions for crossing the easement in place for vehicular or pedestrian access to serve a new residential dwelling from the private land owner.

The Planning Practice Guidance for location plans sets out that 'The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.' (Paragraph 024 Reference ID: 14-024-20140306 Revision date: 06 03 2014).

NBE9(b) of the HLP32 requires developments to provide access routes which are attractive, safe and inclusive for all users, including families, disabled people and the elderly. Policy INF3 of the HLP32 sets out that development proposals will be supported that provide safe, suitable and convenient access for all potential users.

As a result of where the red line has been drawn, the proposed development would be inaccessible from any public right of way or public highway and would therefore be contrary to Policies NBE9 and INF3 of the HLP32 and the aims of the NPPF 2021.

The applicant did not provide any information to demonstrate that a private legal right of access from the public to the application site exists currently. Nor has it been demonstrated that a right of access would be provided in future in order to access the site would be afforded to the occupants of the proposed dwelling for pedestrians or via vehicle.

Section 9 of the NPPF 2021 (Promoting sustainable transport – considering development proposals) sets out at Paragraph 110(b) that in assessing specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.

The proposed floor plans indicate a double garage (measuring 6 metres by 6 metres) and shingle driveway, with three car parking spaces indicated. There would be further space available on the driveway. There would be sufficient space for this number of car parking spaces to be provided. There is also space for cycle parking to be provided and this could be secured via condition if all other matters had been acceptable.

It is therefore considered that the level of car parking is sufficient, however, the site is in unsustainable location, which would encourage the use of private motor vehicle over means of sustainable transport.

No objection has been raised by the Council's Joint Client Waste Team. Details of waste, recycling and cycle storage to ensure compliance with HLP Policies NBE9 and INF3 could have been required via condition if all other matters had been acceptable.

The application has been reviewed by Hampshire County Council as the Local Highway Authority (LHA) and they have advised that given the nature and context of the site, that this proposal would not lead to any material detrimental impact upon the public highway in regard to traffic generation and has no objection to the proposal.

The LHA has highlighted that works on highway land need to be delivered by suitable highway licence. The comments from the Applicant regarding works to the access are noted however do not provide clarity that this matter has been resolved at this stage and if the application had been acceptable in all other respects, an informative would have been included in relation to the licenses which need to be obtained via separate legislation.

Given the unsustainable location of the site, residents of the proposed dwelling are likely to be reliant on private motor vehicles to access public transportation and to access the range of facilities necessary for day-to-day life by virtue of its remote position away from nearby settlements with services and facilities. In rural areas, to promote sustainable development any new housing should be located where it will enhance or maintain the vitality of rural communities.

The HLP32, WNDP 2032 and NPPF 2021 seek to focus development in locations which are, or can be made to be, sustainable through limiting the need to travel and offering a genuine choice of transport modes. Here the site is physically remote from facilities and services and cannot be made sustainable through a genuine choice of transport modes.

Policy SD1 of the HLP32 sets out that the Council will take a positive approach to development in line with the presumption in favour of sustainable development

contained in the NPPF or its successor. Policy SS1 of the HLP32 sets out the Council's spatial approach to new development, confirming that development will be focused within settlements, on Previously Developed Land (PDL) in sustainable locations and on allocated sites.

It has not been demonstrated that the site meets the HLP32 or NPPF 2021 definition of Previously Developed Land. The site is not in a sustainable location. Therefore, the site is not located in a sustainable location suitable for new housing development and no exceptional criteria from Policy NBE1 of the HLP32 in respect of re-use of PDL would be applicable.

As set out in the principle of development section at the start of this report, the NPPF 2021 presumption in favour of sustainable development does not apply where there would be a clear reason for refusing when applying the policies in the NPPF relating to heritage or habitats sites. Paragraph 182 of the NPPF 2021 is clear that the presumption in favour does not apply where the project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an Appropriate Assessment has concluded there would be no adverse effect on the integrity of the habitats site.

In this instance, there has been no such conclusive Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (as amended) and the The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

As a result, notwithstanding the policy conflict and the fact the HLP32 and WNDP 2032 are up to date and consistent with the NPPF 2021, in any event there would be no presumption in favour of granting the current scheme.

### Flood Risk and Drainage

Policy NBE5 (Managing Flood Risk) of the HLP32 sets out five criteria when development would be permitted, in this case the applicable criteria are:

- Over its lifetime it would not increase the risk of flooding elsewhere and will be safe from flooding;
- If located within an area at risk from any source of flooding, now and in the future, it is supported by a site-specific flood risk assessment and complies fully with national policy including the sequential and exceptions tests where necessary.

The site is located within flood zone 1 (the lowest risk area) as designated by the Environment Agency and confirmed by their Flood Map for Planning

It is noted that the Resident's Association commenting on the application identify surface water flooding in the southeast corner and highlight the recent changes to the west in respect of hardstanding, which is subject to enforcement investigations as noted above.

The information submitted with the application has been reviewed by the Council's Drainage Officer who has raised no objection to the proposal, subject to a condition requiring the submission of a surface water drainage scheme prior to the commencement of works. If the proposed development were acceptable in all other respects, this condition would have been recommended to meet the requirements of Policies NBE5 and Policy NBE9(d) of the HLP32 and the aims of the NPPF 2021 (paragraph167).

Furthermore, an informative would have been included to remind the applicant that permission from Thames Water would be required before the proposed foul drainage is connected into the public sewer network.

It is noted that in 2019 the Lead Local Flood Authority (LLFA) was consulted and raised concern and requested further detail and clarification over a significant number of matters before being able to respond on surface water drainage. However, on the basis of the current information and comments from the Council's Drainage Officer, these matters appear to be something which can be addressed via condition.

### Trees

Policy NBE2 of the HLP32 requires new development to avoid adverse impact to trees, hedgerows and other features. Policy NBE9(d) of the HLP32 requires new development to respect the local landscape and sympathetically incorporate any on- site or adjoining landscape features such as trees and hedgerows, and respect or enhance views into and out of the site.

Policy CON8 of the HLP06 states that where development is proposed which would affect trees, woodlands or hedgerows of significant landscape or amenity value planning permission will only be granted if these features are shown to be capable of being retained in the longer term.

Paragraph 130 of the NPPF 2021 sets out that trees make an important contribution to the character and quality of environments, helping mitigate and adaptation to climate change. The application was accompanied by a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement. The survey relates to fourteen trees and two groups of trees. The survey concludes that three of these were 'category A' and of high value (T7 Cedar, T11 Cedar and T12 Yew), three were 'category B' and of moderate value (T2 Birch, T3 Yew and T14 Damson) and the remainder were 'category C' and of low value. The survey concludes that the proposed development does not require the removal of any trees. Where hard

surfacing is proposed within the root protection area of trees, the arboricultural method statement highlights that the form of construction will be permeable and 'above ground', so compliant with BS5837:2012 recommendations.

The Arboricultural Method Statement does not provide sufficient detail in respect of construction management, for example where storage and working areas will be and site welfare facilities. These operations normally take place at the front of a site for the ease of deliveries etc. The tree protection plan highlights that space at the front is not only limited but also sensitive, for example, the permeable gravel drive construction will not prevent cement contamination from wet material mixing areas and so on. Further details would need to be provided to demonstrate whether this could be accommodated elsewhere on site. If all other matters had been acceptable, details of tree protection during construction could have been secured via condition as a pre-commencement condition.

The proposed site plan indicates a new native mixed hedge to the north and south of the site adjacent to the proposed dwelling. To the east of the application site and within the blue line an ecology area is shown, no further detail is provided. There are trees along the western boundary of the site and to the north and south of the site. The new planting is considered to be acceptable.

### Ecology

Policy NBE4 of the HLP32 relates to biodiversity and states:

'In order to conserve and enhance biodiversity, new development will be permitted provided...

- b) It does not result in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;
- c) opportunities to protect and enhance biodiversity and contribute to wildlife and habitat connectivity are taken where possible, including the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations. All development proposals will be expected to avoid negative impacts on existing biodiversity and provide a net gain where possible'

Policy C1 of the WNDP 2032 requires proposals to demonstrate how biodiversity will be protected and enhanced.

The application was accompanied by a Preliminary Ecological Appraisal including a phase 1 bat survey, these documents have been reviewed by the Council's Ecologist who notes that the outbuilding has features that could support bats that could be directly impacted by the proposals, and subsequently a phase 2 emergence survey was required to be undertaken within the appropriate season, however no further information has been received.

Bats are a legally protected species. Policy NBE4 of the HLP32 states that all developments should protect and enhance biodiversity. The Local Planning Authority



has a duty under the Natural Environment and Rural Communities Act 2006 to have full regard to the purpose of conserving biodiversity, which extends to being mindful of the legislation that considers protected species and their habitats and to the impact of the development upon sites designated for their ecological interest.

All bat species are designated and protected as European Protected Species (EPS). EPS are protected under the Conservation of Habitats and Species Regulations 2017. Several species of bats are listed as rare and most threatened species under Section 41 of the Natural Environment and Rural Communities Act (2006).

The NPPF 2021, at paragraph 180 further states that: "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."

Bats are a protected species under the Wildlife and Countryside Act 1981. Development causing disturbance and potential abandonment of a roost could constitute an offence both to a population and to individuals. It is therefore important that the use of an area by bats is thoroughly assessed prior to the determination of a planning application relating to a site where bats may be roosting, commuting or foraging. It has been confirmed within appeals and case law that bat surveys cannot be subject of a planning condition. Assessment on the presence of bats within a building or site are matters which must be resolved prior to determination.

Bats are stated as present in the immediate locality, which raises the possibility of interference from the development with their roosting, feeding patterns or foraging routes. Without a Phase 2 emergence survey, the LPA cannot be satisfied that there is not a current adverse effect or whether mitigation measures are required or would be sufficient. The Local Planning Authority has a duty to consider the possible impact of the development on protected species and has to be reasonably certain that biodiversity would not be adversely affected by the proposal. Unfortunately, the absence of a Phase 2 bat survey carried out by a suitably qualified Ecologist, the Council cannot be assured that no harm to bats would occur as a result of the proposed development and no mitigation measures have been proposed.

In addition, the site has suitable habitat for reptiles and a presence/absence survey is recommended but no further information has been submitted. The further survey work cannot be conditioned as it must be carried out in advance of any permission being granted. Any mitigation or licensing requirements resulting from the further survey work can be conditioned.

The Council's Ecologist recommends that the further survey work and results should be carried out before permission is granted.

The proposal therefore conflicts with the requirements of Policy NBE4 of the HLP32, Policy C1 of the WNDP 2032, the NPPF 2021, the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 and Section 41 of the Natural Environment and Rural Communities Act (2006) as the proposal could

have an adverse effect on existing biodiversity and on a protected species. Thames

### Basin Heaths Special Protection Area

The Thames Basin Heaths Special Protection Area (TBHSPA) is a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species. The area is designated as a result of the Birds Directive and the European Habitats Directive and protected in the UK under the provisions set out in the Habitats Regulations.

The proposed development is located within the zone of influence (i.e. Located between 400m and 5km away from) of the Thames Basin Heaths Special Protection Area (TBH SPA). The proposal is for an additional residential development that would, either on its own or in combination with other plans or projects, have a detrimental on the nature conservation status of the TBHSPA.

South East Plan Policy NRM6 and Policies NBE3 and NBE4 of the HLP32 require adequate measures to avoid or mitigate any potential adverse effects on the SPA. The Habitats Regulations 2017 requires Local Planning Authorities (as the Competent Authority) to consider the potential impact that a development may have on a European Protected Site. In this case the TBHSPA.

Natural England has advised that it has no objection subject to the applicant complying with the Council's TBHSPA policy (NBE3) by securing required contributions to Suitable Alternative Natural Green Space (SANG) and Strategic Access Management and Monitoring (SAMM).

The application does not however set how mitigation would be provided nor is there evidence of grounds of overriding public interest. No SAMM contribution has been secured. The applicant has not demonstrated or provided sufficient information and/or evidence to enable the Council to undertake an Appropriate Assessment that would demonstrate that the proposal would not have a significant effect on the TBHSPA.

Consequently, the scheme fails to meet the requirements of the Habitats Regulations and it cannot be concluded that this development would, either on its own or in combination with other plans or projects, not have a detrimental on the nature conservation status of the TBHSPA. The application is therefore contrary to Saved Policy NRM6 of the South-East Plan, Policies NBE3 and NBE4 of the HLP32, Policy C1 of the WNDP 2032 and Section 15 'Habitats and biodiversity' of the NPPF 2021 and is unacceptable for this reason. Conditions could not be applied to address this material harm to the TBHSPA.

### Other Matters

The Council's Environmental Health team have been consulted on the application and requested further information in respect of odour impact of the development, noting the proposed development needs to be assessed in terms of the proximity of the existing sewerage treatment plant. The Case Officer has reviewed this request however as the sewerage treatment plant referred to is no longer in operation, this

information is considered to be unnecessary.

The application is accompanied by an environmental report by Groundsure, which has been reviewed by the Council's Environmental Health Officer, who based on the site history and the intended use recommends a full contaminated land condition and standard contaminated land conditions in accordance with D.C.L.G model conditions part 1 to 4. An assessment shall be submitted to and approved in writing by the Local Planning Authority prior to any demolition or ground works.

Accordingly, were the development acceptable in all other respects then this condition would be included. It is noted that within the 2019 appeal case, a contamination condition was recommended by the Council at that time.

### Equality

The Council has a responsibility to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. The Case Officer has reviewed the proposed development and documentation and considers that the proposal is not likely to have any direct equality impacts.

### Climate Change

On 29th April 2021 Hart District Council agreed a motion which declared a Climate Emergency in Hart District. Policy NBE9 of the HLP32 requires at criteria (i) and (j) for proposals to demonstrate that they would:

- reduce energy consumption through sustainable approaches to building design and layout, such as through the use of low-impact materials and high energy efficiency; and
- they incorporate renewable or low carbon energy technologies, where appropriate.

The Design and Access Statement notes that the sustainable development is now endorsed in Parts F, L, O and S of the Building Regulations, which together require the sustainable construction of new dwellings such that they are energy efficient and are powered by renewable sources; have effective ventilation and air management systems; water saving infrastructure; and car charging points.

No objection is raised in terms of climate change.

### Planning Balance

The proposal is for a two storey, 5-bedroom market dwelling, and ancillary development including a double detached garage and conversion of the existing mortuary building to a store. The application site is located within the designated countryside.

In terms of planning benefits, the provision of an additional dwelling would make a modest contribution to the Council's housing land supply and this would support the NPPF objective of significantly boosting the supply of homes (paragraph 59). This

social benefit is given limited weight due to the modest scale of the development proposed and because the Council can demonstrate a very robust 10.9 years supply. In 2021, Hart District Council's Housing Delivery Test measurement was 210% delivery.

The weight applied to this social benefit (provision of housing) is reduced significantly due to the Council's housing land supply position and due to the remote location of the site (it being one that does not have good access to services and facilities causing over-reliance on the use of the private motor vehicle).

There would also be some modest economic benefits during the construction and occupation phases through temporary employment in the construction industry and spending in the local economy from workers and residents. These benefits are given limited weight given the modest size of the proposed development and, in part, the temporary nature.

In contrast, the proposed dwelling would cause harm to the character of the area and the setting of the adjoining settlement, and the scheme is unacceptable in its impact on the TBHSPA and protected species. It is not accepted that the site should be considered as previously developed land in its entirety. The scheme is contrary to the development plan as a whole for the reasons identified in this assessment such that it conflicts with SEP Saved Policy NRM6, Policies NBE1, NBE2, NBE3, NBE4, NBE9 and INF3 of the HLP32 and Saved Policies GEN1, GEN2 and CON8 of the HLP06. The application is also contrary to a number of the aims and objectives of the NPPF 2021.

There would be no other public benefits from the proposed development and the minor benefits set out above do not outweigh the harm identified above

On balance, the limited planning benefits would not outweigh the conflict with the development plan and the 'tilted balance' in respect of sustainable development is not engaged as set out earlier in the report.

## **CONCLUSION**

Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (Planning and Compulsory Purchase Act 2004 38(6) and NPPF paras. 2 and 47).

The application has been assessed against the development plan and relevant material considerations and it is recognised that it would bring limited social and economic planning benefits. However, a number of conflicts with the development plan have been identified as set out in this report and the application does not comply with the development plan as a whole.

There are no material considerations indicating a decision not in accordance with the development plan should be taken.

Given the material conflicts set out within the report, it would have been recommended that Members of Planning Committee refuse the application. In this case, whilst determination of the application by the Local Planning Authority is no

longer possible, to assist progress of the appeal an indication of the likely decision Members would have resolved is requested.

The officer recommendation with the reasons for refusal are set out below:

### **OFFICER RECOMMENDATION - REFUSAL for the following reasons**

1. The proposed development, by reason of its location outside of any designated settlement boundary, would represent an inappropriate, unjustified and unsustainable development in the countryside which would directly conflict with the spatial strategy set out in Policies SS1 and NBE1 of the Hart Local Plan (Strategy and Sites) 2032 and Policy A1 of the Winchfield Neighbourhood Development Plan 2032.
2. The proposed development, by virtue of its appearance and scale would be out of keeping with the rural locality and would materially affect the visual natural landscape that currently contributes to the intrinsic open and natural setting and character of this section of the countryside. The proposal would have a detrimental effect upon visual amenity due to the erosion of the rural character and setting of the countryside including in views from rural lanes and footpaths. As such, the proposal would be contrary to Policies NBE1 and NBE2 of the Hart Local Plan (Strategy and Sites) 2032, Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006, Policy B2 of the Winchfield Neighbourhood Development Plan 2032 and the aims of the National Planning Policy Framework 2021.
3. By virtue of the scale, massing, layout and architecture of the proposed development the proposal would fail to integrate into the locality and would not respect or enhance the visual amenity of the landscape. The proposal would not be sympathetic or responsive to the appearance, layout and scale of existing development, in particular the setting of Winchfield Court. The proposal would not achieve high quality design, would not be of exceptional quality or truly innovative design, would not enhance its immediate setting nor positively contribute to the overall appearance of the local area. As such, the proposal would be contrary to the requirements of the Policies NBE1, NBE2 and NBE9 of the Hart Local Plan (Strategy and Sites) 2032, Saved Policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 and the aims of the National Planning Policy Framework 2021.
4. In the absence of sufficient information in relation to ecology including protected species, it has not been demonstrated that the proposed development would either conserve or enhance biodiversity. Insufficient information has been provided within the application for the Local Planning Authority to be able to adequately assess the impacts of the proposal on the local bat population and does not enable the LPA to discharge its statutory duties in this regard. The proposal is therefore contrary to Policy NBE4 of the Hart Local Plan (Strategy and Sites) 2032, Section 15 of the National Planning Policy Framework 2021, the Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) and the Wildlife and Countryside Act 1981 (as amended) with regards to protected species.

5. The site is located within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA). In the absence of any evidence that the test of no alternatives under Regulation 62 of The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be satisfied, or evidence that there are grounds of overriding public interest, the proposed development, either alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the TBHSPA. As such the proposal is contrary to Policies NBE3 and NBE4 of the Hart Local Plan (Strategy and Sites) 2032, Policy C1 of the Winchfield Neighbourhood Plan 2032, Saved Policy NRM6 of the South East Plan and the aims of the NPPF 2021.
6. The proposed development is unsatisfactory in that the red line of the application site does not include the land required for pedestrian and vehicular access to the site from the public highway and the proposal does not demonstrate to the satisfaction of the Local Planning Authority that the future residents and visitors of the proposed dwelling would be able to gain safe, suitable and convenient access from the public highway to the site. As such, the proposed development is contrary to Policies NBE9 and INF3 of the Hart Local Plan (Strategy and Sites) 2032 and the aims of the NPPF 2021.
7. The application fails to provide any heritage assessment of the significance of the former mortuary building on the site as a non-designated heritage asset. Insufficient information has been provided to allow the Local Planning Authority to consider whether the conversion would cause any level of harm to the heritage asset as a result of the proposed change of use of the building and the necessary interventions' impact on the fabric of the building. The proposals would therefore be in conflict with Policies NBE8 and NBE9 of the Hart Local Plan (Strategy & Sites) 2032, Policy D1 of the Winchfield Neighbourhood Development Plan 2032 and Section 16 of the NPPF 2021.

## **INFORMATIVES**

1. The Council works positively and proactively on development proposals to deliver sustainable development in accordance with the NPPF. In this instance: Unfortunately, the cumulative issues were too significant to be amended through the planning application process with some matters being fundamental matters relating to the principle of development and the Council offer a pre-application advice service which was not sought by the applicants.

2. This decision is in respect of the drawings and plans:

Site Location Plan (MLP/01)

Visual Image of proposed dwelling (unnumbered)

Planning and Design Statement (PL/22/188) dated July 2022

Preliminary Ecological Appraisal (including Phase 1 Bat Survey) dated May 2022

Garage details and former mortuary details (2282/09)

Floor plans (2282/07)

(received by the Local Planning Authority on 19th August 2022)

Elevations (2282/08 Rev A)

(received by the Local Planning Authority on 6th September 2022)

Letter from Mark Leedale Planning dated 14th September 2022 regarding Foul Sewage / Surface Water and Utilities.  
(received by the Local Planning Authority on 15th September 2022)

Site Plan (2282/06 Rev A)  
Block Plan and Street Elevation (2282/05 Rev A)  
(received by the Local Planning Authority on 20th September 2022)

Environmental Report prepared by Groundsure  
(received by the Local Planning Authority on 28th September 2022)

Topographical Survey (RT/222/0078/P/0001)  
Plan showing TPO trees  
(received by the Local Planning Authority on 3rd October 2022)

Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement (Ref: R87)  
Tree Protection Plan (Winchfield Court -  
TPP) Tree Constraints Plan (Winchfield  
Court -TCP) Tree Survey (unnumbered)  
(received by the Local Planning Authority on 28th October 2022)

## **RECOMMENDATION**

That the Resolution of the Planning Committee in relation the abovementioned proposal is recorded to assist Officers in the non-determination appeal.