

14 April 2025

Report to Medstead Parish Council

Planning application, Beechlands Road, medstead

Brief and Purpose of Commission

1. Medstead Parish Council (‘the parish council’) has asked Steve Tilbury of Steve Tilbury Consulting[[1]](#footnote-1) to review the decision-making process for planning application 55318/001 – land to the west of Beechlands Road, South Medstead - approved on 20th March 2025 by East Hampshire District Council (‘EHDC’). The approval is subject to the completion of a Section 106 agreement and will only be issued after the Section 106 agreement has been completed.
2. The purpose of report is to identify any obvious shortcomings or errors in the evidence or the reasoning behind the decision. It will then be for the parish council to determine how to proceed with that information.

Review Process

1. I have read the officer report to the EHDC Planning Committee meeting on the 20th March 2025 at which the application was discussed, and the minutes of that meeting. I have watched the recording of the meeting itself via the EHDC website. I have looked at the application documents (though not in the detail that I would do were I commenting on the application itself), consultee responses and the made Medstead and Four Marks Neighbourhood Plan. I am familiar with the EHDC local plan, the requirements of national planning policy and the planning context for applications in EHDC. I have also read the most recent appeal decisions which have been referred to in relation to this application.

The Application

1. This is an outline application for 62 homes (having been reduced from an initial 70) on a green field site in south Medstead. The application was submitted by Bargate Homes who are a well-established local housebuilder. It was accompanied by all of the supporting studies and information that would be expected and required for an application of this type. These were produced by reputable consultants who are familiar with the local area. The documents are comprehensive and cover the range of issues and the level of detail I would expect for an application of this nature. Although it as an outline application, a certain amount of information was included to demonstrate how a scheme could be implemented effectively to reassure EHDC as decision maker that an outline consent could be followed by acceptable reserved matters applications. This included information relating to biodiversity net gain which is a mandatory requirement for development of this type.
2. Questions were raised at the planning committee about whether the number of houses (62) could be reduced when the reserved matters applications are received. To clarify, having granted outline consent EHDC would not be able to say in respect of the reserved matters application(s) “we now think 62 is too many”, but in the unlikely event that practical or design constraints come to light it is possible that the final approved development might consist of fewer dwellings.

Planning Context

1. Following the publication of the latest version of the National Planning Policy Framework (‘NPPF’) and detailed updates to Planning Policy Guidance (‘PPG’)[[2]](#footnote-2) EHDC is required to demonstrate a 5-year supply of housing land against the current ‘standard method’ for calculating the housing requirement for the district. That is because its own local plan is more than 5 years old and relevant policies are ‘out of date’ according to the definition in the NPPF/PPG. It may well be legitimate to criticise EHDC for allowing this situation to develop, but that does not alter the decision-making context in which they find themselves. There is no recourse or remedy (other than electorally) which is available to challenge this position.
2. EHDC accepts that it can only demonstrate a 2.7 year supply of housing land and as a result the presumption in favour of sustainable development set out in the NPPF Para 11 (d) ii applies. This is the so called ‘tilted balance’ which was discussed in the officer report and at the planning committee meeting. Assuming it is not ‘switched off’ by one of the special circumstances (which it is not in this case) the tilted balance requires that the decision maker should approve an application unless the adverse impact ‘significantly and demonstrably’ outweighs the benefits. That judgement is for the decision maker to determine based on policies in the development plan and material considerations. National planning guidance is always an important material consideration and must be taken into account. There was nothing in the report or committee discussion that suggested to me that the proper application of the ‘tilted balance’ was not understood. The fact that a councillor might not be able to explain or articulate a planning policy or process with the same precision that might be expected of a planning professional does not invalidate or compromise their decision making, something the courts have considered on numerous occasions e.g. *R (on the application of The Mid- Counties Co-operative Ltd) v Forest of Dean District Council [2017]*[[3]](#footnote-3)
3. The question was asked at the committee whether the tilted balance also favours ‘unsustainable development’? Of course, the answer is no, and if a decision maker is sure that a proposal is not in sustainable location or there are other very good reasons why it is unacceptable then the NPPF is clear that it can and should be refused however dire the local land supply situation.

Assessment of the Application

1. In some ways this application is relatively uncomplicated. There are no heritage issues (because there are no designated or local heritage assets in the vicinity) or issues relating to European protected sites. There are no issues relating to protected landscape (because the site is not within or adjacent to one) and flood-risk is low. It was not considered to be Schedule 2 EIA development applying the threshold set by the government.[[4]](#footnote-4) All of these issues are dealt with in the application material and the officer report. The approach to satisfying the requirement for biodiversity net gain by purchasing ‘off site’ units[[5]](#footnote-5) is allowed under national guidance where necessary, and whilst some respondents were critical of this, EHDC cannot impose different rules.
2. There was also great local concern about the cumulative impact of development on the A31 and the various connections with local roads such as Lymington Bottom and Boyneswood Road. However, Hampshire County Council as highway authority raised no objections on that point subject to an appropriate contribution being paid via the Section 106 agreement. As is often the case, what local residents experience as inconvenience and delay is not judged to be a ‘severe’ impact by the highway authority. It is clear from their consultee responses that the highway authority has at least considered the cumulative impact of development in the area.
3. Issues were raised during the application process, in representations and at the planning committee meeting regarding the accessibility of the site and ease of access to local facilities on foot or by bike. The first consultation response from the highway authority raised those concerns, and a proposal followed from the applicant to provide funding for some additional infrastructure. This was accepted by the highway authority which then withdrew its objection. The final decision on these matters is always for the local planning authority – for EHDC. It does not have to agree that the highway authority is correct even on technical matters, and can take its own reasoned view. Had it felt very strongly that the site was remote and unconnected then it could and should have refused the application on the basis that it was not sustainable. However, both officers and members accepted that the distances involved were comparable with those in other recent decisions (which it was reasonable for them to do) and that with the mitigation proposed this was not a sufficient basis to refuse the application using the ‘significantly and demonstrably’ benchmark. There is a great deal of advice and guidance available on walking distances, but the NPPF does acknowledge, in Para 110 that:

*..opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision making.*

1. Bearing that in mind I do not think the conclusion was obviously unreasonable or unjustified given the facts and the policy context.
2. The other main point raised regarding the application was that unplanned and speculative development would undermine ability for infrastructure and services to be properly aligned with growth. This was raised in deputations to the planning committee and by planning committee members. They correctly noted that the whole point of a plan led system was to ensure that communities were sustainable and that they should grow on a managed basis – not haphazardly.
3. I have a great deal of sympathy with that concern, as I am sure do officers and members at EHDC. It is clearly correct that the whole point of a plan led system is to ensure well planned and sustainable development with supporting infrastructure. However, as an incentive to plan making, national planning policy is designed to ensure that new housing is still delivered even where there is no up to date plan, hence the tilted balance. The benefits of additional housing provision will always carry considerable weight.
4. In this case, it seems to me that it was reasonable for EHDC to conclude that there were no reasons to refuse the application which would meet the ‘significantly and demonstrably’ test. Officers in particular will always have in mind what a planning inspector would make of any reasons they offered for refusal in such circumstances but as way of testing their reasoning and advice rather than anything else.

Committee Report and Meeting

1. The officer report does seem to me to provide a comprehensive overview of the relevant issues and to explain the nature of the application accurately. It does not include the Medstead and Four Marks Neighbourhood Plan ‘by name’ in setting out the scope of the development plan for the area – which it should have done – but it does mention ‘MFMNP Policy 1’ and ‘MFMNP Policy 7’ in the Principle of Development section. This suggests that the plan has been considered. In any case the application is not contrary to any policy in the made FMMNP and the work on the revised plan has not progressed sufficiently for any weight to be given to what might eventually emerge from it.
2. All of the relevant issues necessary to evaluate the application are covered in the report. At the committee the introduction to the report was concise and factual, and the questions, answers and debate did not demonstrate any fundamental misdirection as to the nature of the application or the planning judgement councillors were being asked to make.
3. Both the committee report and discussion at the meeting referred to appeal decisions on sites elsewhere in the area. Those decisions are material planning considerations to the extent that they shed relevant light on the way in which a planning inspector has interpreted policy or assessed particular local issues. In my judgement neither the report or the committee discussion suggested that the committee was under the impression that it had to make a decision ‘just because’ of a decision elsewhere. It would have been more surprising if those appeal decisions had not been mentioned and deliberated upon.
4. A local planning authority should not be ‘frightened off’ taking a decision it is genuinely convinced is correct by the fear of an appeal or costs being awarded against them. But in my experience, planning officers and councillors frequently discuss how likely it is that they would be able to win a subsequent appeal (and/or avoid costs) as an exercise in testing whether they have good enough reasons to refuse an application. In my view the application was considered on its own merits. If councillors gave the impression that they had no choice but to approve the application that was only because they properly understood the outcome that planning considerations pointed towards, and not because they were unaware of their options.
5. There is no statutory duty on a planning authority to give reasons for a decision to approve an application although the courts have decided that a duty can arise under common law in very limited circumstances. In this case the committee considered the officers advice and took a decision which it believed was in accordance with the development plan and material planning considerations. That would seem sufficient reason for a decision of this nature.
6. The parish council or local residents might disagree with some of the analysis or judgements reached, but a successful legal challenge would require some failure to apply local or national policy correctly, important missing information or obviously irrational conclusions being drawn, none of which I could point to following my review.

Conclusion

1. I understand fully why there is frustration about seemingly unconstrained growth in an area such as Medstead and Four Marks. Together they are settlements which are likely to attract attention from developers because they do have sustainable characteristics when compared to many smaller villages in the area. The only way to regain control over such development is for a new local plan to be put in place as soon as possible, something EHDC is well aware of.
2. However, in my view the decision to approve the application was reasonable given the content of the application and, more importantly, the planning context in which EHDC finds itself. I could see nothing of substance in the decision-making process which calls the planning judgement or decision-making process into question.

**Steve Tilbury BA(Hons) MSc AssocRTPI**

For Medstead Parish Council

14 April 2025

1. Steve Tilbury Consulting is a sole practitioner planning consultancy based in New Alresford, Hampshire. Steve Tilbury is a planning advisor to the Hampshire Association of Local Councils and has no commercial connections with any of the parties involved in the application or with East Hampshire District Council. [↑](#footnote-ref-1)
2. The parish council may be aware that following recent court decisions, the NPPF and PPG must be considered of equal weight as material considerations in setting out national planning policy. [↑](#footnote-ref-2)
3. I should make clear that I am not legally qualified and provide my understanding of the law here and later in the report as an experienced planning professional, not a lawyer. [↑](#footnote-ref-3)
4. I assume this is what the committee report refers to as the regulations having been made more ‘streamlined’ in recent years – it would have been helpful if this had been explained more fully. [↑](#footnote-ref-4)
5. The committee report uses the term ‘credits’ which are actually something different but clearly intends to refer to ‘units’ as set out in the applicant’s supporting BNG report. Mixing up the terms is not unusual and not significant in this context. [↑](#footnote-ref-5)