

Appeal Decision

Site visit made on 29 November 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/U2235/W/16/3154777

Land to the south of Court Lodge Road, Harrietsham, Kent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by FD Attwood and Partners against the decision of Maidstone Borough Council.
 - The application Ref 16/502377/FULL, dated 11 March 2016, was refused by notice dated 18 July 2016.
 - The development proposed is the erection of 20 dwellings including garages/carports, landscaping, public open space, access and pedestrian links.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The second reason for refusal refers to the absence of a legal mechanism to secure 40% affordable housing and contributions towards an extension to Harrietsham primary school, healthcare and local libraries. Following the submission of the appeal, the site owners and the Council entered into a Planning Obligation¹ which would secure these provisions as well as a financial contribution to footpath improvements and the provision and maintenance of public open space on part of the appeal site. The completion of the Obligation, therefore, overcomes the second reason for refusal and it is not necessary for me to consider this matter in detail. Nevertheless, I have had regard to the claimed planning benefits of the Obligation in reaching my conclusion.

Main Issue

3. The main issue is the effect of the proposal on the landscape character of the site and surrounding area, including the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Character and Appearance

4. The appeal site is an agricultural field located to the north of the railway line and adjoining tree belt, and to the west of substantial planting, a lake and residential development on the west side of Church Road. To the west the site is bounded by a strong belt of planting and a public footpath (KH207A) beyond

¹ Dated 28 November 2016

which is open agricultural land. The northern boundary of the site is marked by a recently reinforced planting belt beyond which is sporadic residential development on Court Lodge Road.

5. Notwithstanding the loosely spaced residential development on the west side of Church Road, the lake and extensive planting to the east of the site effectively separate it from this part of the built up area of Harrietsham. The railway line and adjoining planting perform a similar role with regard to the established development to the south. These characteristics are reflected in the settlement boundary defined in the Maidstone Borough-wide Local Plan 2000 (LP) which excludes the appeal site. Policy ENV28 specifies the types of development which are acceptable in the countryside. The appeal proposal does not fit within any of those categories. The site also falls within the countryside as defined in the emerging Maidstone Borough Local Plan 2016 (ELP) where Policy SP17 seeks to restrict built development. It is also within the North Downs Special Landscape Area where LP Policy ENV34 gives particular attention to the protection and conservation of the scenic quality and distinctive character of the area and priority to the landscape over other planning considerations. It has been suggested that the SLA designation will not be carried forward to the ELP. However, the policy currently forms part of the development plan.
6. The land to the north and west of the site is within the AONB. The planting on the north and west site boundaries does provide some short range visual screening. Nevertheless, the site is visible in a range of medium and longer views from public vantage points on the rising land to the north and west (for example Photographic Viewpoints 3, 6 and 17 in the appellant's LVIA²). As such, the appeal site forms part of the immediate setting of the AONB.
7. Whilst LP Policy ENV33 deals with development within the AONB and, therefore, is not strictly relevant to the proposal, the Planning Practice Guidance advises that the duty to have regard to the purposes of the protected area is relevant in considering proposals situated outside of the designed area, but which might have an impact on its setting³. Paragraph 115 of the National Planning Policy Framework (the Framework) requires great weight to be given to conserving the landscape and scenic beauty of AONBs.
8. Viewed from Court Lodge Road, the planting belt to the east of the site marks a distinct change in character from the essentially enclosed area to the east to the more open agricultural landscape, including the appeal site, to the west. This is recognised in the Maidstone Landscape Character Assessment 2012 (LCA) which places the appeal site, along with the land to the west and north, within the Eyhorne Vale Landscape Character Area of large arable fields, mature field boundaries and woodland. Therefore, notwithstanding the short range screening effect of the planting on the appeal site's western boundary, by virtue of its openness, and separation from the built up area of Harrietsham, the site has a greater affinity with the countryside to the north and west. Even when it matures, the planting on the northern site boundary would have a limited effect on this broad landscape setting. As such, I concur with the findings of the LCA that the landscape of the Eyhorne Vale, including the appeal site, is of high value with a high sensitivity to change.

² Allen Pyke Associates Landscape and Visual Impact Assessment ref 2654-RE-01-DA.Final

³ Paragraph Reference ID: 8-003-20140306

9. The site, therefore, contributes positively to the SLA and to the setting of the AONB. I note that the Inspector in a previous appeal⁴ against the refusal of outline planning permission for 40 dwellings on the site reached a similar conclusion.
10. The current appeal proposal is for 20 dwellings to be located on the southern part of the site. This area slopes down gently towards the southern boundary. An area of open space would be provided on the northern part of the site. Belts of planting would sub-divide the housing into two areas as well as separating these areas from the open space. The number of dwellings now proposed has been halved, the road layout simplified and the amount of planting increased considerably compared with the illustrative proposals of the previous scheme. Nevertheless, the area proposed for built development would be roughly the same size and on the same part of the site.
11. Whilst the current full scheme provides more certainty than the earlier outline scheme, it is clear that the previous Inspector was concerned with matters of location, siting and broad landscape and visual effects based on a reasonably detailed, if indicative, layout. The proposed development would, therefore, remain divorced from the main built up area of Harrietsham and from the residential development on Court Lodge Road.
12. The additional planting now proposed would help to filter short range views of the development from Court Lodge Road, although, it would be unlikely to screen entirely the presence of built development. Medium and long range views of the site would be available from the elevated ground to the north and west notwithstanding the topography of the site and the proposed planting. The reduction in the height of the houses now proposed compared with the previous illustrative scheme would not result in a material reduction in the visibility of the proposal.
13. I recognise that, from some of these locations, the views wide ranging and the appeal site forms a relatively small component. Nevertheless, the locations are of high sensitivity and the urbanising effect of the houses, together with the associated access road and boundary enclosures would result in a significant change to the open, agricultural character of the site.
14. Consequently, the proposal would result in a discordant incursion into a landscape of high value and sensitivity. The substantial planting on the east and south boundaries of the site defines the edges of the settlement in this area and I see no reason why further development is required in order to reinforce or re-define them. Whilst there is no substantive evidence to suggest that the appearance or layout of the dwellings would be objectionable, that does not outweigh these concerns.
15. Therefore, I consider that the proposal would be significantly harmful to the landscape character of the site, the SLA and the setting of the AONB. As such, it would conflict with LP Policies ENV28 and ENV34, ELP Policy SP17 and with Framework paragraph 115.

⁴ Appeal ref: APP/U2235/W/15/3119223

Other Matters

16. The proposal would include new links to the existing footpaths leading to the railway station to the south of the site and the Woodland Walk to the east and north. These links would provide functional connections to existing community facilities and public transport for future residents. I note that the sustainability of the location has not been questioned by the Council.
17. Whilst the proposed links would also provide an alternative route to the railway station for residents to the east of the site, I am not persuaded that the new route would be significantly more convenient than the existing route via Church Road. Moreover, given the role which the planting to the east of the site plays in the wide landscape, I have some sympathy with the concern expressed locally regarding the urbanising effect of the proposed improvement to the Woodland Walk.
18. The appellant considers that the open space proposed on the northern part of the site would provide a significant public benefit. There is nothing to suggest that the proposal would not deliver the open space required to meet the needs of future occupiers as required by Policy OS1 of the Council's Adopted Open Space Development Plan Document. This would make the proposal acceptable in planning terms, but does not amount to a public benefit.
19. The appellant also advises that there is an identified need for public open space in Harrietsham, but considers that the location proposed in the ELP would deter the existing community from accessing the facility. I have not been provided with details of the ELP proposal and, therefore, it is difficult to judge its merits compared with the appeal proposal. However, I have already concluded that the appeal site is not well related to the existing built up area. Moreover, the appellant also considers that the ELP should not be used for development management purposes. These factors limit the weight that I can attach to the claimed public benefit of the proposed open space.
20. I understand that the appeal site was allocated for housing in a Neighbourhood Plan which was the subject of community consultation and reached the submission stage. However, in May 2015, the Parish Council decided to revise the Plan and the implications for the site of that process are not known. Consequently, I give little weight to the allocation in the earlier version of the Plan. I also note that the site was subsequently put forward in the call for sites as part of the Council's Strategic Housing Land Appraisal Assessment, but was rejected due to its relationship with the built up area and effect on the AONB. The consideration of the site in the development plan process does not, therefore, offer support for the appeal proposal.

Planning Balance and Conclusion

21. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together.
22. The Council and the appellant disagree over whether the Council can demonstrate a five year supply of housing land as required by paragraph 47 of the Framework. The appellant argues that the Council cannot show an adequate supply and, therefore, that paragraph 49 of the Framework is engaged and that LP Policy ENV28 should be regarded as out of date. It is also contended that limited weight should be attached to the ELP. The appellant

has drawn my attention to eight appeal decisions⁵ where these matters were considered, although it would appear that the Council's position on housing land supply has changed since at least some of these decisions were issued.

23. The appellant does not quantify the extent of the shortfall in housing land. Nevertheless, the proposal would make a very modest contribution to the supply in a Borough where the objectively assessed need has been put at 928 units per year⁶. It is also relevant that, at the time of the previous decision at the appeal site, the Council accepted that it could not demonstrate an adequate supply of housing. The Inspector nevertheless found that the adverse impacts of that proposal on the landscape character of the area would significantly and demonstrably outweigh its benefits. Halving number of dwellings proposed would lead to a corresponding reduction in the contribution of the proposal to the housing land supply compared with the previous proposal.
24. I have already concluded that the benefits of the proposed footpath links and open space would be limited. However, I attach weight to benefit of the proposal in delivering up to eight affordable housing units. As such, the proposal would make a minor contribution to the social role of sustainability.
25. I have had regard to the changes to the scheme compared with the earlier proposal. However, those matters do not alter the poor relationship between the site and the established built up area. Nor, in my view, would they adequately reduce the impact of the proposal on the landscape character of the area. The proposal would, therefore, have a significant negative effect on the environmental role of sustainability.
26. No substantive evidence of a contribution to the economic role of sustainability has been provided.
27. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
28. Consequently, even if I were to conclude that there is not a five year supply of housing, that LP Policy ENV28 is out of date and that limited weight should be accorded to ELP Policy SP17, I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal.
29. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR

⁵ Appeal references APP/U2235/W/15/3131945, APP/U2235/W/153144947, APP/U2235/W/16/3146558, APP/U2235/W/16/3144908, APP/U2235/W/15/3140679, APP/U2235/W/16/3147096, APP/U2235/W/16/3146765 and APP/U2235/W/16/3149542.

⁶ Maidstone Borough Local Plan Housing Topic Paper Update 1 September 2016