

## Appeal Decision

Site visit made on 12 December 2016

**by Nicola Davies BA DipTP MRTPI**

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

**Decision date: 16 February 2017**

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**Appeal Ref: APP/U2235/W/16/3156763**

**Shangri La, Horseshoes Lane, Langley, Kent ME17 3NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs E Goode against the decision of Maidstone Borough Council.
  - The application Ref 15/508298/OUT, dated 9 October 2015, was refused by notice dated 14 June 2016.
  - The development proposed is described as an "outline application with all matters reserved for the construction of 5no. dwellings with associated parking, access and landscaping works on the land to the south of Shangri-La, Horseshoes Lane, Langley".
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr and Mrs E Goode against Maidstone Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The application was submitted in outline with all matters reserved. I have dealt with the appeal on this basis treating the proposed site layout plan and proposed plans and elevations for plots 1 to 5 as illustrative only.

### Main Issues

4. The main issues in this case are: -
  - a) The effect of the proposal upon the character and appearance of the area; and
  - b) Whether the proposal would constitute a sustainable form of development, taking into account local and national planning policies.

### Reasons

5. The site lies outside the development boundary of a settlement as defined in the Maidstone Borough-Wide Local Plan 2000 (the Local Plan). The site is, therefore, in the countryside for the purpose of the Council's planning policies. The appellants concede this within their statement. Consequently the site is defined as countryside and Policy ENV28 of the Local Plan applies, which seeks
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to protect it's character and appearance and restricts housing development to certain limited categories, none of which are applicable in this case. Policy ENV32 of the Local Plan indicates that within the Southern Anti-Coalescence Belt development that consolidates existing urban areas of development will not be permitted.

6. However, there is a dispute about whether the Council is able to demonstrate a five year supply of housing land. Paragraph 47 of National Planning Policy Framework (the Framework) and, in such circumstances, paragraph 49 instructs that policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year of deliverable housing sites. The presumption in favour of sustainable development at paragraph 14 of the Framework requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I will deal with the housing land supply position later.

*Character and appearance of the area*

7. The settlement of Langley lies 0.4 miles across the fields to the east of the appeal site. The existing development adjacent the appeal site comprises a loose-knit group of buildings including a public house, a nursery school, a church and a few dwellings. I observed that the dwellings to the east of Sutton Road and south of Horseshoes Lane are in the main large detached properties set within spacious plots. Their long rear gardens are generally grassed and undeveloped with boundaries marked by hedgerows and landscaping. Apart from the appeal site most of the rear gardens abut the open countryside.
8. The main body of the appeal site comprises a rectangular parcel of land to the southern part of the large rear grassed garden of Shangri La. The garden is positioned behind existing predominantly two-storey development which, in the main, fronts onto Sutton Road and Horseshoes Lane. The south, east and west boundaries of the rear garden are bordered by a tall hedge. Although I note a small dwelling is positioned immediately to the south of the appeal site, the garden forms an integral part of the undeveloped character to the rear of this small cluster of road frontage development.
9. Whilst I accept the existing development in the locality has established over a period of time, this proposal would significantly expand built development and increase the size of this small hamlet. This would compromise the primary purpose of the Southern Anti-Coalescence Belt which seeks to avoid consolidation of scattered settlements. The addition of five dwellings with formalised layout, long access driveway, parking, turning areas and landscaping, would have a significant urbanising effect upon the character of this small collection of loose-knit and spacious development and would substantially change the character of this rural hamlet.
10. The provision of five dwellings on the site would not have any particular visual or physical affinity with the looser-knit pattern of development to be found in this locality. The indicative layout lodged with the application fails to demonstrate the proposal could be satisfactorily assimilated into this location. In effect, the proposal involves the piecemeal development of land which contributes to the rural setting of Horseshoes Lane. The provision of five dwellings on the site, no matter how well designed, would convey the impression of a small enclave of higher density housing that would be out of

keeping with the more loose-grained character of the immediate locality and would be inappropriate to its context.

11. My attention has been drawn to a dwelling adjacent to the appeal site at 3 Old Style, Sutton Road, Langley which has been allowed at appeal (appeal ref AAP/U2235/A/14/2215657). Whilst this sizeable two-storey dwelling and its site also falls within the Southern Anti-Coalescence Belt and is situated slightly deeper in the plot, it remains clearly consistent with the surrounding existing road frontage development. The development was considered by the Inspector to be similar to development which already exists in the locality. The circumstances of this development, therefore, differ to that of these five dwellings proposed behind existing road frontage development.
12. The undeveloped rear gardens and surrounding fields are rural in character. Hedgerows enclosing areas of grassed land are particular features of this landscape. The rear gardens in this area are also enclosed by hedgerows with landscaping along the boundaries and within gardens. Maidstone Landscape Capacity Study: Sensitivity Assessment, January 2015 identifies the appeal site as lying within the Langley Heath Undulating Farmlands north of the Greensand Ridge. The Council considers the landscape sensitivity of this area to be high due to the frequent land undulation and intermittent nature of tree cover.
13. The dip slope of the Greensand Ridge lies some distance south of the appeal site. I consider that given the distance of the appeal site from the Greensand Ridge the impact upon this landscape feature would be limited. However, the proposed development would effect the character of the Langley Heath Undulating Farmlands landscape as this small hamlet is located within this landscape.
14. I observed that the rear garden drops away from north to south and the proposed development would be positioned some distance from Horseshoes Lane and behind the two-storey dwelling, Shangri La. The appellant contends that the topography of the land, mix of vegetation and development that lies between the Greensand Ridge and the appeal site, the surrounding two-storey development and high hedges along three sides of the site would limit public views of the development. As such, the appellant considers the visual effect of the proposed development would not detract from the appearance of the locality or the wider landscape and would not be prominently visible in views from the surrounding countryside, highways and public paths. It is also suggested that additional native planting could augment the hedgerows along the boundaries and a swathe of hedgerow or other landscaping could be planted between the appeal site and Horseshoes Lane to reduce the visibility of the development from Horseshoes Lane.
15. Whilst I acknowledge that additional landscaping would help to mitigate the proposed developments visual impact, the proposal would nonetheless involve the loss of a large part of undeveloped garden that is typical of this landscape and contributes to the rural setting of the locality. Furthermore, irrespective of the density of the proposed development the proposal would introduce urban related built development into a currently undeveloped garden out of keeping with the rural setting of the area.
16. The proposed development is in outline. Even if the height of the proposed dwellings would be limited to single-storey and would be lower in height to that of adjacent development, the roofs would be visible from local viewpoints

beyond the appeal site. The development would also be visible to existing adjoining occupiers as well as patrons of the public house. The formalising of the layout of the proposed development with its own landscaping and additional landscaping around the site would add to the urbanising effect of the proposed development.

17. Overall, the visual harm of the proposed development to the character and appearance of the rural landscape would be substantial even though the development would not project into the wider countryside.
18. The appellants consider conditions relating to limiting the height of the dwellings and a detailed landscaping scheme could be imposed. Paragraph 203 of the NPPF indicates that conditions can be used to make an otherwise unacceptable development acceptable. However, I have found that the proposed development would have an unacceptable urbanising effect in this location. Such conditions would, therefore, not ameliorate this harm.
19. My attention is drawn to other developments close by. The Crown and Horseshoes Public House, Sutton Road, Langley (application ref 16/500692/FULL) has been extended and the car parking area expanded into the beer garden. The public house extension is different to that of the proposed new build development and although the additions to the public house are clearly visible from Horseshoes Lane the additions are set within the context of the existing public house complex.
20. I have also been directed to a planning permission at land to the south of Sutton Road (application ref 15/509015/OUT) north west of the appeal site. This development is a strategic development of significant size and proposed on an allocated site which has been subject to a full landscape and Southern Anti-Coalescence Belt assessment. The appellant considers the hamlet would merge with this development as it is built out. However, this strategic development would be located to the north west and be separated from this hamlet by a clear, if small, gap of public open space. Although located not far from this appeal site, the development is a large scale scheme in a different location and does not justify development at this appeal site. In any event, the proposal would not have any visual or physical affinity with this strategic development.
21. For these reasons, the proposal would conflict with Policy ENV28 of the Local Plan which seeks to avoid development which would harm the character and appearance of the countryside. The proposal would also be contrary to Policy ENV32 of the Local Plan that would consolidate existing areas of development. The harm could not be described as low level to an identified landscape of local value in an area of high visual sensitivity. Paragraphs 17 and 109 of the Framework recognise the intrinsic character and beauty of the countryside and seek to protect and enhance valued landscapes like this.

### *Sustainability*

22. The site is located close to bus stops providing links with larger settlements and is within a short walking distance of Langley and Langley Heath. The large settlement expansion at Sutton Road, north west of the appeal site would provide future new footways and infrastructure, along with enhanced public transport and road network capacity linking to the built up area. As such future occupiers would be able to reach services and facilities at settlements

and benefit from the hamlet becoming closer to the edge of the expansion of Maidstone which will also offer services and facilities. The Council does not contest this; therefore, accessibility to services and facilities weighs in the site's favour.

23. The Council's stance is that given the site's location beyond the settlement boundary, it lies within the countryside for the purposes of the relevant development plan policies where restraint is placed on new housing. However, according to the appellant, the Council is unable to demonstrate that a deliverable five year supply of housing land is available, as required by the Framework. The appellant suggests the Council's adopted policies relating to housing provision cannot be considered up-to-date (in accordance with paragraph 49 of the Framework). The appellant's stance is that the proposal therefore falls to be considered against the Framework, including paragraph 14 which sets out the presumption in favour of sustainable development.
24. I am aware of the Council's assertion that it has a five year housing land supply but this is currently under examination at this point in time. My attention has been drawn to an appeal at land north of Lenham Road, Headcorn (appeal reference APP/U2235/W/16/3151144) in which the Inspector commented that it is more likely than not that there is currently a five year supply of housing, albeit Maidstone's definitive housing requirement figure remains to be determined in the examination of the Local Plan. The Council's stance is that it continues to adopt a cautious approach in calculating housing land supply. However, it remains confident that it can meet the Borough's objectively assessed housing need. It is suggested the Council's five year supply of housing land continues to improve.
25. The submissions for the appellant are highly critical of the Council's approach. The appellant stance is that, in effect, the interim findings of the EIP Inspector suggest the Council has not identified enough deliverable housing sites and has not identified sufficient employment land. As such, it is suggested the Council's Plan is a long way from being found sound. The appellant argues that, amongst other things, there are major flaws in the evidence base for the claimed housing land supply figures, the Council has not undertaken a robust review of the likely sites in their housing trajectory table and, as the Council must now reconsider its employment strategy, there may be implications in relation to strategic infrastructure for housing sites.
26. Notwithstanding the dispute between the parties concerning the adequacy of the Council's supply of housing land, the situation appears to be evolving. As such, this matter is more properly addressed through the Local Plan process, where the evidence can be thoroughly tested. In any event, on the evidence before me, I am unable to reach a firm conclusion one way or the other. Even if the appellant is right to say there is a shortfall in the supply of housing land (i.e. sufficient to override the constraints of the Council's existing settlement policy) it would still be necessary for me to assess the sustainability credentials of this proposal, with particular reference to the economic, social and environmental dimensions of sustainable development, as set out in paragraph 7 of the Framework.
27. With respect to economic considerations, the proposal would provide employment opportunities during the construction period. The occupiers of the new housing may well contribute to the local economy. The Council has not

suggested otherwise, albeit the inference is that the economic benefits would be 'modest'. I see no reason to disagree.

28. In terms of social considerations, whilst the proposal is for a small-scale housing development, it would contribute to the provision of housing in the District. Maidstone has a range of services, including educational and community facilities. There is no evidence to suggest the scale of the housing scheme would place unacceptable demands upon the local infrastructure or services, or that it would lead to an undesirable increase in the population or imbalance in the community. Arguably, it would contribute to the support of a strong, vibrant and healthy community. The appeal site also appears to be in a reasonably sustainable location, with access to various local facilities without placing reliance on the car. The site also appears to be on a bus route with services to Maidstone, which offers a range of services.
29. Turning to environmental considerations, paragraph 7 of the Framework makes it clear that sustainable development should contribute to the protection and enhancement of the natural, built and historic environment. Paragraph 9 of the Framework also confirms that pursuing sustainable development involves seeking positive improvements in the quality of the natural, built and historic environment, as well as people's quality of life. With regard to the first main issue I have found that the proposed development would harmfully alter the character and appearance of the area.
30. Weighing all the relevant considerations in the planning balance, I conclude that the proposal is contrary to the existing settlement policy for the area. I further conclude that even if the current proposal is to be considered against the Framework, the adverse environmental impact of the scheme would significantly and demonstrably outweigh the considerations advanced in favour of the proposal. Overall, I find that it constitutes an unsustainable form of development. It is pertinent to note the Courts have held the presumption within paragraph 14 of the Framework applies only to sustainable development.

### **Other Matters**

31. Both the appellant and Council have drawn my attention to a number of planning appeals for housing in the Borough in addition to those noted above. The appeal at Ham Lane, Lenham (appeal ref APP/U2235/W/15/3131945) relates to a substantially larger development in a different location. The development of the former garden nursery at Four Wents Orchard, Chartway Street, Sutton Valence (appeal ref APP/U2235/W/15/3137036) and Wind Chimes, Chartway Street, Sutton Valence (appeal ref APP/U2235/W/16/3145575) relate to road frontage development and development infilling between existing dwellings. I therefore consider these examples are not directly comparable to the circumstances of this site and this appeal can and should be considered in its own right. I have also taken into account the Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East, SSCLG [2016] EWCA Civ 168 Court of Appeal judgement in reaching my decision.
32. I have also seen sight of a recent appeal decision at Mount Avenue/Blunden Lane, Yalding (APP/U2235/W/16/3151289). This appeal was subject to a hearing. The Inspector may have had more evidence before her and would have been able to test this to a greater degree. I have reached my decision on the evidence before me.

## **Conclusions**

33. I have taken into account all the other matters that have been raised but find they do not alter or outweigh the main considerations that have led to my decision to dismiss this appeal.

*Nicola Davies*

INSPECTOR