

Appeal Decision

Hearing held on 28 and 29 March 2017

Site visit made on 28 March 2017

by C J Anstey BA (Hons) DipTP DipLA MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/U2235/W/16/3159463

Bell Farm, Land south of East Street, Harrietsham, Maidstone, Kent, ME17 1HJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant a hybrid planning permission.
 - The appeal is made by Messrs. W.B., R.R.B. and J.E.B. Cyster and Ms S.J. Cyster against the decision of Maidstone Borough Council.
 - The application Ref 15/51047/OUT, dated 4 December 2015, was refused by notice dated 4 July 2016.
 - The development proposed is a hybrid application comprising change of use and conversion of existing building to one residential dwelling, site access works and alterations to existing farm access and outline consent, with access being considered, for up to 45 residential dwellings, open space, play, landscaping and associated drainage works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A signed and dated unilateral undertaking has been submitted relating to affordable housing and including contributions to libraries, healthcare, open space, highways and primary education. I consider that this planning obligation is compliant with *paragraph 204 of the National Planning Policy Framework (the Framework)* and *Regulation 122 of the CIL Regulations 2010*.

Main Issues

3. The main issues are:
 - (i) whether local policies for the supply of housing are up-to-date and accord with national guidance, having regard to the five year supply of housing land supply.
 - (ii) the effect on the character and appearance of the local area and the setting of the village; and
 - (iii) the impact on heritage assets.

Reasons

Description

4. The appeal site comprises a larger portion of 2.59 ha and a smaller detached portion. The larger portion comprises a field bounded by the M20 and parallel
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Channel Tunnel Rail Link (CTRL) to the south and agricultural land to the east and west. It would be accessed from the south side of East Street through the farmyard between the Grade II listed 'Malthouse' and an outbuilding that is to be converted to residential use. This part of the site also includes a short length of East Street, which will need to be widened slightly. The smaller part of the site is detached and lies to the east of the larger part. It comprises a concrete-block wall and a farmyard area on the south side of East Street, between the Grade II listed Bell House and the Grade I listed Bell Farm.

5. Most of the site falls outside and to the west of the East Street Conservation Area. The farmyard to the west of the 'Malthouse' required for access lies within the western edge of the Conservation Area. The detached eastern part of the site lies towards the centre of the Conservation Area.
6. The appeal scheme is submitted in hybrid form. Planning permission is sought for the conversion of the existing outbuilding to the west of the 'Malthouse,' into a single one bedroom dwelling with a detached garage. The existing concrete block wall and corrugated steel gates between Bell House and Bell Farm would be replaced with a widened access and 2m high ragstone wall with brick capping and soft landscaping. Outline permission is sought for the erection of up to 45 residential dwellings on the field, with access for consideration at this stage and all other matters reserved for future consideration. The indicative layout shows a range of sizes of properties. Forty percent of the units would be affordable housing, with 60% affordable rented and 40% shared ownership.

Existing and emerging planning policy

7. *Section 38(6) of the Planning and Compulsory Purchase Act 2004* requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
8. The development plan for the area includes the saved policies of the *Maidstone Borough-Wide Local Plan (MBWLP)* adopted in 2000. The *Maidstone Borough Local Plan (MBLP)* is the emerging local plan and is currently the subject of Examination by an independent Inspector. The *MBLP* Inspector issued Interim Findings on 22 December 2016. The detailed timetable for the progress of the *MBLP* specifies that consultation on the Main Modifications will run from 31 March to 19 May 2017. It is estimated that the Inspector's Report will be available by the end of July 2017 with the Council adopting the Plan by mid-September 2017. Consequently it has progressed a considerable way along its path to adoption.
9. There are a number of policies in the *MBWLP* and the *MBLP* that I consider to be relevant to the determination of this appeal. These are dealt with at an appropriate point in my reasoning, as is the amount of weight to be attached to these policies having regard to the *Framework* and the *Planning Practice Guidance (the Guidance)*.

Issue 1: Housing land supply

Policies for the supply of housing

10. *MBWLP Policy ENV28* applies to the countryside in the Borough, which is defined as all those parts of the plan area not within development boundaries. This policy seeks to restrict most forms of development in the countryside

apart from that which is justified on the basis of essential need, such as that required for the purposes of agriculture and forestry. The policy also makes it clear that permission will not be given for development which harms the character and appearance of the area. The appeal site lies beyond the village development boundary for Harrietsham defined on the *Proposals Map* of the *MBWLP* and therefore within the countryside for planning policy purposes.

11. *MBLP Policy SS1: Maidstone Borough Spatial Strategy* deals with the distribution of growth across the Borough. The Maidstone urban area is identified as the principal focus for new development. The rural service centres of Harrietsham, Headcorn, Lenham, Marden and Staplehurst will be the secondary focus for housing development with the emphasis on maintaining and enhancing their role and the provision of services to meet the needs of the local community. *MBLP Policy SP6: Harrietsham Rural Service Centre* indicates that the village is a sustainable settlement and identifies several sites for residential development. The appeal site is not one of them. *MBLP Policy SP17: The Countryside* is similar to *MBWLP Policy ENV28* and seeks to prevent most forms of development in the countryside. Again the appeal site lies outside the defined settlement boundary for Harrietsham and within the countryside.

Areas of dispute

12. It is argued for the appellants that the backlog in the delivery of housing in the period 2011-2016 (1,555 dwellings), should be met over the next 5 year period (i.e. the Sedgefield approach). It is also argued that the Council has made over-optimistic assumptions about the likely delivery of housing on various sites with extant permission and on certain allocated sites. Consequently the supply figure advanced for the appellants is about 585 dwellings fewer than the Council's figure. The combined effect of this is that against a 5 year target of 6,253 dwellings (1,250.6 per year) it is contended for the appellants that there is a supply of 6,097 dwellings or 4.87 years of supply. Consequently on the appellant's own figures there is only a very small deficit of some 156 dwellings for the 5 year period.
13. Estimating how many dwellings are likely to be delivered on sites over the next 5 year period in the Borough is extremely difficult. Inherent to any assessment are various assumptions that may or may not prove to be accurate. I have carefully considered the material advanced with regard to the particular sites and allocations within the Borough where the appellants dispute anticipated delivery rates. In my view the Council has taken reasonable steps to determine the likely time-frame for the delivery of these sites through a combination of contact with site owners and potential developers, local knowledge, and progress with applications and permissions. Consequently whilst it is possible that some of these sites may not come forward as soon as anticipated it is extremely unlikely that all of them would fall by the wayside. Even if it is assumed that these sites actually contribute only 30% of the 585 figure anticipated by the Council (i.e. 175 dwellings) there would still be a 5 year supply on the basis of the Sedgefield approach.
14. Notwithstanding this I have reservations about the use of the Sedgefield approach here given the particular local circumstances. The information presented to the Local Plan Examination indicates that meeting the identified backlog within the first 5 years would require a very high, and possibly unachievable, rate of house building, in the early years of the remaining plan period. If this were to be done over a 10 year period as affirmed by the *MBLP*

Inspector this would be likely to mean a far smoother and more realistic rate of delivery over the plan period. In addition a steady number of jobs would be provided in the construction industry to help the local economy. These considerations constitute strong grounds for addressing the existing backlog over a longer time period than 5 years. Clearly this would have the effect of strengthening the 5 year housing land supply position. Furthermore it would mean that a 5 year supply is still available even if the appellants' predicted housing delivery figures prove to be more accurate than the Council's.

15. I find, therefore, that the Council has demonstrated that there is a 5 year supply of housing land in the Borough. In view of this the adopted policies in the *MBWLP* and the emerging policy in the *MBLP* relating to the supply of housing are not out of date. As these policies are consistent with national policy in terms of seeking to limit new residential development outside settlements and in the countryside, and protecting rural character, they must be accorded due weight. Having regard to *paragraphs 215 and 216 of the Framework* I conclude that full weight should be accorded to *MBWLP Policy ENV28* and moderate weight to *MBLP Policy SP17*.

Issue 2: Character, appearance and setting

16. *MBLP Policy DM3: Historic and Natural Environment* seeks to ensure that new development protects and enhances the historic and natural environment. Amongst other things development, where appropriate, should incorporate measures to protect positive historic and landscape character, heritage assets and their settings, and the existing public rights of way network. This policy is designed, amongst other things, to ensure that careful regard is paid to landscape character. Given the progress that has been made to the adoption of the *MBLP* and its consistency with *the Framework* this emerging policy is accorded moderate weight.
17. Although most of the appeal site is agricultural land it is not currently being used. At the time of my site visit it appeared bleak and desolate. However if it were to be put to productive arable purposes its appearance would be much improved.
18. In my judgement the proposed development would not have a significant impact on the landscape of the wider area. The topography of the site and the surrounding land form means that medium and long distance views of the site are very limited. I have serious reservations, however, about the impact of the scheme on the local landscape and the setting of the village. The appeal site is undeveloped and could be put to agricultural use. It lies beyond the existing built-up area, to the rear of the frontage properties along East Street, and is clearly part of the countryside that borders this part of the village. I consider that the site makes an important contribution to the rural setting of the southern part of Harrietsham. The field is visible from local viewpoints and from the public rights of way across the site. In arable use the site would provide a soft and pleasing edge to the village and positively contribute to the enjoyment and experience of those living in and moving around the village. The new estate that is currently being developed to the west does not unduly detract from the important contribution that the appeal site makes to local character.
19. The construction of up to 45 dwellings on the appeal site would constitute encroachment into the countryside and suburbanise the southern edge of the village to an unacceptable extent. In spite of the landscaping proposed I

believe the new development would appear intrusive, particularly during the winter months, and cause unacceptable harm to the village's rural setting.

20. I have paid careful regard to the appellant's landscape evidence, including the Landscape and Visual Assessment and the other material submitted. I acknowledge that the landscape immediately to the south of Harrietsham, of which the appeal site is a part, is not rare, or of exceptional quality. However this does not alter my finding that the proposal would cause real harm to the local landscape, which is clearly valued by local people, and the rural setting of the village. Detailed design, siting, layout or landscaping would be unable to ameliorate this harm to an acceptable extent.
21. I conclude, therefore, on the second main issue that the proposal would cause significant damage to the character and appearance of the area and the rural setting of Harrietsham. This brings the scheme into conflict with that part of *MBLP Policy DM3: Historic and Natural Environment* dealing with landscape character.

Issue 3: Heritage Assets

22. The *Planning (Listed Buildings and Conservation Areas) Act 1990* places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest when considering whether to grant planning permission for development which affects the setting of a listed building. The *Act* also makes it clear that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
23. *Paragraph 132 of the Framework* makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. It goes on to note that significance can be harmed or lost through development within the asset's setting.
24. As the site of the proposed 45 dwellings would be set away from the East Street Conservation Area and other heritage assets I do not believe that this part of the development would have an adverse impact on their significance. I note that the two main parties also share this view.
25. I do have concerns, however, about the proposed access road from East Street, which would be within the Conservation Area and immediately adjacent to the Grade II listed 'Malthouse.' The southern side of the East Street Conservation Area is characterised by large houses often linked by tall brick or ragstone walls. These walls are an integral part of the appearance of the Conservation Area and hence its significance. Along the appeal site's western frontage to East Street and close to the 'Malthouse' there is a ragstone and brick wall. This wall constitutes an important feature at the entrance to the Conservation Area and positively contributes to the setting of the listed 'Malthouse.' Furthermore this wall screens the area between the 'Malthouse' and the outbuilding to be converted from the comings and goings along East Street thereby adding to the tranquil character of this part of the Conservation Area.

26. The new access would involve the removal of the central part of this ragstone and brick wall and the formation of a carriageway and footway through to the land to the south west. The loss of a large part of this prominent wall would be harmful to the significance of the Conservation Area and the listed 'Malthouse.' The introduction of a new road and the associated vehicular and pedestrian traffic would add to this harm in view of the resultant damage to setting and character. The retention of part of the wall and the rebuilding of the wall along the line of the visibility splays, together with the removal of the much altered 19th Century farm building behind the wall and the proposed residential use of the converted building, would not compensate for this harm.
27. Having regard to the effects of the appeal scheme and the high threshold required for 'substantial harm' I consider that the proposed development would cause 'less than substantial harm' to heritage assets in terms of *the Framework*. It is accepted and well-established that any harm to the significance of heritage assets should be given considerable importance and weight and any harm or loss must be clearly and convincingly justified.
28. *Paragraph 134* of the *Framework* specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum use.
29. I consider that the proposed replacement of the concrete block wall between the Grade II listed Bell House and the Grade I listed Bell Farm with a ragstone and brick wall and the clearing up of the associated farm-yard would be of benefit to the appearance of the East Street Conservation Area and the setting of these listed buildings. I also believe that there are clear public benefits arising from the scheme, including the significant contribution to housing supply that would result and the provision of much needed affordable housing. In addition there would be a variety of economic benefits including employment in the construction industry and additional spending in the local area. I believe substantial weight should be attached to these benefits. In my judgement these public benefits, when added together, outweigh the less than substantial harm to the heritage assets that has been identified.
30. I conclude, therefore, on the third main issue that the public benefits of the proposal outweigh the less than substantial harm caused to heritage assets. As the approach in my reasoning is consistent with national legislation and guidance I consider that careful and appropriate regard has been paid to the historic environment. In view of this I do not consider that the scheme is at odds with that part of *MBLP Policy DM3: Historic and Natural Environment* which is designed to ensure that new development protects and enhances the historic environment.

Other matters

31. Local people have raised a number of concerns including the impact on highway safety, traffic congestion, agricultural land quality, bio-diversity, the capacity of local services and facilities, sewerage, drainage and flooding. However, having considered all the material before me, including the views of statutory authorities and the various reports submitted, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal.

Balance of considerations.

32. *Paragraph 14* of the *Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. The appeal scheme would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that there is housing land available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing, including a significant number of much-needed affordable housing units. Appropriate contributions are to be made to libraries, healthcare, open space, and primary education. As regards environmental considerations the site is reasonably well located for access to a range of services and facilities and Harrietsham is identified as a Rural Service Centre where additional housing development is considered appropriate. It is also evident from my reasoning that the scheme includes heritage benefits. I consider that substantial weight should be given to these findings.
33. The appeal site, however, is located outside the built-up limits of Harrietsham village and within the countryside. There is no essential need for the development to be located here. Consequently the appeal scheme is clearly at odds with existing and emerging local planning policies relating to the supply of housing in the Borough. I have found these policies to be up-to-date and to accord with national guidance. Considerable weight needs to be given to this conflict. I have also concluded that the proposal would cause significant damage to the character and appearance of the area and the rural setting of Harrietsham. As a result the scheme is contrary to local planning policy relating to landscape character. Again considerable weight needs to be given to this finding.
34. In my judgement, given the conflict with policies for the location of housing in the Borough and the significant damage to the character and appearance of the area and the rural setting of Harrietsham, the proposed scheme does not constitute sustainable development. Consequently the 'presumption in favour' set out in *the Framework* does not apply.

Overall Conclusion

35. My overall conclusion is that the proposal is contrary to the existing and emerging development plan and that other material considerations do not outweigh this conflict. *Paragraph 12* of the *Framework* indicates that in such a situation development should be refused. Consequently there are compelling grounds for dismissing the appeal. I have taken account of all other matters referred to me, including the allocation of the site for housing in an early version of the emerging local plan and the various appeal decisions submitted. However they do not outweigh the conflict with the development plan in terms of housing supply and environmental harm. None of the other matters raised outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

APPEARANCES

FOR THE APPELLANT:

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Rob Kinchen-Smith

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DHA Planning
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FOR THE LOCAL PLANNING AUTHORITY:

Kate Altieri
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INTERESTED PERSONS:

Jackie Moore
Glenda Dean
Fred Stanley
Mac Allardyce
Eddie Powell

Harrietsham Parish Council
Harrietsham Parish Council
Harrietsham Parish Council
Harrietsham Parish Council
Harrietsham Parish Council & Borough
Councillor
Harrietsham Parish Council and
Borough Councillor
Harrietsham Borough Councillor and
Borough Councillor

Tom Sams

Janetta Sams

Anthony Chiva
Deanna Dynes
Sharon Prior

DOCUMENTS HANDED IN AT THE HEARING

1. Attendance list.
2. Extract from Borough-Wide LP Proposals Map (Dec. 2000) showing settlement boundary.
3. Extract from LP Proposals Map (Feb. 2016) showing settlement boundary.
4. Extract and Maps from LP (2014) relating to Policies H1 (26).
5. Extract from LP (Feb. 2016) relating to Policies SP5 and SP6.
6. Extract and Maps from LP (Feb. 2016) relating to Policies H1 (33), (34) and (35).
7. LP Examination – Inspector's Interim Findings dated 22/12/16 handed in by the Council.
8. LP Examination timetable handed in by the Council.
9. Council's Housing Land Supply tables reflecting Interim Findings handed in by the Council.
10. Housing supply table handed in for the appellants.

- 11.Housing supply table comparing appellants' and Council's positions.
- 12.LP Examination – Covering statement, Schedule of Proposed Main Modifications March 2017 and extract handed in by the Council.
- 13.Letter from KCC dated 27/1/16 with plan relating to PROWs used as a basis for the Site Visit handed in for the appellants.
- 14.Extract from Definitive Map of PROW handed in by the Council
- 15.Aerial photograph handed in for the appellants.
- 16.Appeal decision ref: APP/U2235/W/16/3163577 (20/3/17) West Street, Harrietsham.
- 17.Appeal decision ref: APP/U2235/W/16/3148213 (28/3/17) Fant Farm, Maidstone.
- 18.Appeal decision ref: APP/U2235/W/16/3161238 (27/3/17), Southfield Stables, South Lane, Sutton Valence.
- 19.Planning layout for Ashford Road site.
- 20.Planning layout for Crest Nicholson site.
- 21.Appeal decision ref: APP/U2235/W/16/3151144(9/12/16) Lenham Road, Headcorn.