



Appeal Decision

Site visit made on 18 August 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Appeal Ref: APP/U2235/W/21/3283194

Land North of Green Lane & East Church Street, Boughton Monchelsea, Maidstone

- 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 Matthew Brett-Chapannel of Classicus Estates against the decision of Maidstone Borough Council.
 - The application Ref 21/502103/OUT, dated 13 April 2021, was refused by notice dated 25 June 2021.
 - The development proposed is described as '*Outline application for the erection of 3No. Self Build residential dwellings with associated landscaping, drainage and earthworks and creation of new access from Beresford Hill/Church Lane with all other matters reserved.*'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal was made in outline with only access for consideration at this stage. Appearance, landscaping, layout and scale are matters reserved for future consideration. Whilst some detailed drawings have been submitted in support of the application, it is clear that these are illustrative or indicative only – showing what might be possible on the appeal site, but not what specifically is sought. I have proceeded on this basis.
3. The main parties have submitted an agreed Statement of Common Ground (SOCG). I have used this, the Council's Decision Notice, and the submitted evidence in my considerations.

Main Issues

4. The main issues are:
 - i) The effect of the proposed development on the character and appearance of the area, and;
 - ii) The effect of the proposal on the setting on nearby designated heritage assets, and;
 - iii) The weight to be attributed to the custom and self-build nature of the proposal.

Reasons

Character and appearance

5. The appeal site is a part of a grassed field immediately north of the settlement boundary of Boughton Monchelsea as defined in the *Maidstone Local Plan 2017* (MLP) and in the *Boughton Monchelsea Neighbourhood Plan 2021* (BMNP). Boughton Monchelsea itself is defined as a larger village in the MLP settlement hierarchy. The appeal site lies outside the defined settlement boundary within both the MLP and BMNP, it is therefore in the 'countryside' for planning purposes¹.
6. This part of the settlement of Boughton Monchelsea is characterised by two storey dwellings located on a grassed triangle on Church Street and Haste Hill Road. Those located on Church Street face onto the road, being set back behind ragstone walls and grass verges as can be seen at Forge House, Forge Cottages, Cherrytrees and Chestnut House on the eastern side of the highway. This street scene changes at the junction with Beresford Hill, next to the Public Right of Way KM339, where built form gives way to hedged enclosed highway on Beresford Hill to the left travelling northwards and unbound service road to the right leading to The Old Barn House, with an open field to the east.
7. The proposal would see the introduction of three dwellings in the currently open and undeveloped northern edge of the settlement. Whilst there would be some opportunity to use landscaping at the reserved matters stage to mitigate some of the visual impact, this would take some time to screen the three dwellings. Moreover, that would not alter the fact that a greenfield site in the countryside would change to a number of built forms, drastically changing the character of this part of the countryside by eroding its currently open form. Indeed, the Appellant accepts that *'the inevitable physical change that the development brings...there is an inevitable degree of harm as a result'*².
8. Moreover, whilst the proposal is submitted in outline, so the illustrative drawings contained within the Design Code³ are not binding, they show that these dwellings would be set back from the highway by some distance. This would be at odds with the prevailing pattern of development within this part of Boughton Monchelsea, where dwellings typically face onto the public highway with garden and parking areas to the front, normally behind ragstone walls (especially on the appeal side of Church Street).
9. As such, the proposal would have an adverse effect on the character and appearance of the area. Accordingly, the proposal would be contrary to Policies SP 17 and DM 30 of the *Maidstone Local Plan 2017* (MLP), which amongst other aims seek to ensure that development proposals in the countryside will not be permitted unless they would not result in harm to the character and appearance of the area. It would also conflict with Policy RH 1 of the *Boughton Monchelsea Neighbourhood Plan 2021* (BMNP), which seeks to support new residential development north of Heath Road, B2163, where it lies within the Boughton Village development boundary, and that applications must demonstrate how they respond to the established local character including the rural character and sit comfortably alongside existing development.

¹ See page 56, MLP

² Appellant's Statement of Case, September 2021, page 11, paragraph 5.16

³ Design code, 20-21-RevB, Page 5

Settings of heritage assets

10. The Boughton Monchelsea 'The Green' Conservation Area is located immediately south of the appeal site and contains a number of Grade II listed buildings. The Green itself forms the heart of the conservation area, where the road layout forms a triangle within which the predominant character is of open space with grass and trees.
11. The significance of the conservation area's setting derives, in part, from the rural character of the location with visitors travelling northwards on Church Street or Haste Hill Road, experiencing an abrupt end to built-form at the apex of these highways, with Beresford Hill to the left, and the start of open countryside to the right which includes the appeal site. This creates a sense of historic legibility to the relatively isolated rural village, as identified by the appellant's heritage report⁴.
12. The proposal for the erection of three dwellings would erode the setting of the conservation area as a designated heritage asset through the change of an open field into that of built development. This would result in harm to the significance of the conservation areas setting through the loss of its open rural character. The harm arising would be almost irreversible and would alter this part of the setting of the conservation area for a number of years.
13. The proposal also includes the demolition of a ragstone wall. This is located outside the conservation area itself, but it is a key feature of the adjacent settlement. Indeed, ragstone walls are identified in the conservation area appraisal as important features contributing to the significance of the conservation area. The appellant proposes to reinstate a ragstone wall. However, the existing ragstone wall is located to the front of Forge House, and both this wall, and more generally this type of walling, are important features in the conservation area and the loss of this section of stone walling would also detract from the setting of the conservation area.
14. As identified by the appellant's own heritage statement, the proposal would lead to less than substantial harm to the significance of the setting of the conservation area as set out in Paragraph 202 of the *National Planning Policy Framework* (the Framework). This is also the position of the local planning authority's own heritage specialist advisor. Given my considerations above I see no reason to disagree with this position.
15. Paragraph 202 of the Framework details that where less than substantial harm is found, this needs to be weighed against the public benefits of the proposal. In this case, public benefits include the reinstatement of an orchard on part of the site, the reintroduction of a ragstone wall on the site's western boundary, and the provision of three custom or self-build housing plots. However, not all of these are reliant upon the delivery of the proposal. The Appellant could potentially erect a ragstone wall and/or plant a new orchard even without permission being granted.
16. Taken in the round, I do not find that the public benefits arising from the proposal would outweigh the less than substantial harm to the significance of the designated heritage asset in the form of the Green Boughton Conservation

⁴ *Heritage Statement*, March 2021/Project Ref 6673B, undertaken by HCUK, Page 24, Paragraph 5.5

Area. These are assets of particular importance which provide a clear reason for refusing the development proposed.

17. Accordingly, the proposed development would have an adverse effect on the significance of the setting of the conservation area. As such it would be conflict with Policy DM4 of the MLP which, amongst other aims, seeks conserve and enhance the significance of the heritage asst and its setting. It would also conflict with the Policies of the Framework set out in Chapter 16, Conserving and enhancing the historic environment.
18. I am also aware that there are nearby listed buildings, including the Grade II listed Beresfords located around 70m to the north of the appeal site, with its access running along the west boundary of the site. The main parties agree in the SOCG that '*the site has no impact on any other designated or non-designated heritage assets, including ... nearby Listed Buildings*'⁵. Whilst mindful of my duties under s66(1) of the *Planning (Conservation Areas and Listed Buildings) Act 1990*, as amended, including the desirability of preserving the settings of listed buildings, I see no reason to not concur. Nonetheless this does not alter my findings in respect of the harm arising to the setting of the conservation area.

Custom and self-build housing

19. Policy SP 19 sets out that the Council will seek to ensure the delivery of sustainable mixed communities through seeking a range of house sizes, types and tenures (including plots for custom and self-build). The Appellant has submitted a completed unilateral undertaking (with attached plan) dated 31 March 2022. Put simply, this would place an obligation, executed as a deed were the appeal allowed, that the plots would only be used for Self-Build and Custom Housebuilding (herein CSBH). Accordingly, the proposal would accord with Policy SP 19 of the MLP in terms of contributing towards CSBH in the Borough.
20. The Council confirmed in its Statement⁶ that it has fallen short of its 'Duty' under the Self-Build and Custom Housebuilding Act 2015, as amended, to grant planning permission to meet identified need in the first two base periods. The figures in the table of Paragraph 7.14 (based upon the Annual Monitoring Report 2020-21) indicate that 41 permissions were granted against 135 individuals and 2 Associations on the register between April 2016-October 2016, and 76 permissions were granted against 124 individuals and 2 Associations on the register between October 2016 – October 2017.
21. It is clear that the delivery against the need within the Register is low based on these figures. As such, there is a clear need within the Maidstone Borough for more housing to be delivered as CSBH plots or sites. My view is reinforced by the submitted documents such as the *Bacon Review*⁷, and the House of Lords Built Environment Committee, *Meeting housing demand* HL Paper 132 report dated 10 January 2022. Both of which underline the need to utilise CSBH as part of the overall housing mix in order to meet housing needs in England. Taken in the round, the fact that the proposal would result in the delivery of

⁵ Statement of Common Ground: signed 10/03/22, Page 14, Paragraph 7.18

⁶ Paragraphs 7.12 to 7.16, Page 13

⁷ See CD5.4; The Bacon Review, also known as '*The Prime Minister's Independent Review To Develop A Plan For A Major Scaling-Up Of Self-Commissioned New Homes – Across All Tenures – To Boost Capacity And Overall Housing Supply*'

three CSBH dwellings is a material consideration that weighs in favour of the grant of planning permission in this instance.

22. Nonetheless, the plan provides flexibility in where CSBH can be delivered as part of the overall housing delivery for the Borough and its adopted spatial strategy. Indeed, Policy SS 1 sets out that provision for 17'660 new dwellings is made between 2011 and 2031. Furthermore, Policy SP 19 sets out that the Council will seek plots for custom and self-build and that large development schemes will be expected to demonstrate that consideration has been given to custom and self-build plots as part of housing mix.
23. It logically follows, therefore, that whilst there has been a lower than needed delivery of CSBH in the Borough, based on the figures before me, overall there is a healthy supply of housing within the Borough. Moreover, there is nothing to suggest that the trend towards more permissions being granted for CSBH would, over time, start to redress the undersupply of this specific housing type introduced in 2015.
24. Indeed, it is not disputed between the main parties that the local planning authority is able to demonstrate a 5-year supply of deliverable housing sites (at around 5.6 years of supply) and performance against the Housing Delivery Test is either roughly 144% on the standard calculation, or approximately 166% against the adjustments due to Covid-19⁸. The Appellant considers that the failure of the Council to comply with the CSBH Duty means that Paragraph 11 d) of the Framework is engaged.
25. However, given the above figures show that the Council is able to demonstrate a five year supply of deliverable housing sites. Moreover, the harm arising to the setting of the conservation area as a designated heritage asset provides a clear reason for refusing the development proposed. As a consequence, Paragraph 11 d) of the Framework is not engaged in this instance.
26. In conclusion on the weight to be attributed to the CSBH nature of the proposal, I have found that the proposal would accord with SP 19 of the MLP insofar as it would provide CSBH. Moreover, this is a provision of a housing type where there has been some under provision in recent years. At the same time, the benefit of this needs to be considered against the reasonably healthy supply of housing in the whole Borough against the adopted spatial strategy. Accordingly, such provision is afforded moderate weight in favour of the proposal.

Conclusion

27. The proposed development would not accord with the development plan when considered as a whole and the material considerations weighing in favour of the proposal do not indicate a decision otherwise than in accordance with it.
28. For the reasons given above, I conclude that the appeal should be dismissed.

C Parker

INSPECTOR

⁸ LPAs Statement of Case, Page 12, Paragraphs 7.10-7.11. The figure needs to be substantially low, that is less than 75% as detailed in footnote 8 of the Framework.