



Appeal Decision

Hearing held on 5 October 2022

Site visit made on 5 October 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/E2205/W/22/3300798

Land to South of Hookstead Green, Ashford Road, High Halden, Ashford, 589224, 137109

- 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 Fraser Tolman (Tolman Homes Ltd) against the decision of Ashford Borough Council.
 - The application Ref 21/00927/AS, dated 17 May 2021, was refused by notice dated 25 March 2022.
 - The development proposed is described as "erection of up to 28 dwellings together with all necessary infrastructure."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal seeks outline planning permission with all matters reserved other than access. I have determined the appeal accordingly, treating the submitted plans as indicative with regards to all the reserved matters.
3. During the Hearing it was confirmed that the site is used for grazing cattle. The owner of the herd had been advised of the appeal, so had the opportunity to make representations on it.

Main Issues

4. The main issues are:
 - The Council's housing land supply, with regard to the Stodmarsh Lakes nutrient neutrality issue,
 - Whether the appeal site is a suitable location for housing, having regard to local and national policies; and,
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Housing Land Supply

5. The Borough of Ashford is significantly affected by the nutrient neutrality issue with regard to the Stodmarsh Lakes. This prevents the issuing of planning

permissions for new housing development within the Stour Catchment unless it can be shown that the development would achieve nutrient neutrality. This issue arose in 2020, after the adoption of the Ashford Local Plan (the LP) in 2019. Consequently, the Council accepts that it is unable to presently demonstrate a 5 year supply of deliverable housing land.

6. Both main parties referred during the Hearing to the figure of 3.5 years supply established in an appeal decision granted for a site in Tenterden¹ in March of this year, and which addressed the nutrient neutrality issue. I have taken it as the lowest figure for the Council's present supply. The Council referred to a figure of 4.54 years supply that was identified as its maximum supply in the Tenterden case. As this was not contested by the appellant, I consider this to be the maximum figure for the Council's supply.
7. The Council is progressing a strategic solution with the intention of creating new wetlands. Since the Tenterden decision the Council has reached agreement in principle with the landowner of the site of the proposed wetland. From the evidence before me and given at the Hearing, the Council expects to submit a planning application for the first 2 cells of the new wetland, of 4 total, around the turn of the year. Once the application is submitted there will be sufficient certainty for the Council to issue permissions for housing development in the Stour Catchment. These permissions would be subject to conditions preventing occupation of the new dwellings until the wetlands are established. The Council anticipates that the wetlands will address the nutrient neutrality issue sufficiently that all sites allocated within the LP will be deliverable by 2030, the period up to which the LP covers.
8. The Council's position has therefore advanced somewhat from the time of that earlier decision, where the Inspector found that there was not sufficient evidence to demonstrate all the sites likely to be delayed by the nutrients issue could be delivered within the five year period. However, there is still some uncertainty regarding the timescale for submission and determination of the application, and therefore when the wetlands can be delivered. In addition, the appellant expressed concerns as to whether developers would be willing to commit to developments subject to the delivery of wetlands outside their control. I recognise that this may cause some delay in commencing developments, even if the proposed wetlands scheme progresses without issue from this point.
9. The agreement in principle provides some additional certainty that the wetlands can be delivered, but it is not possible to say with absolute certainty that this would be the case. At present time, therefore, the Council's housing land supply lies between the 3.5 and 4.54 years supply identified.

Location

10. The settlement of High Halden lies outside of the Stour Catchment. Housing development in this location is not constrained by the nutrient neutrality issue. Policies SP1 and SP2 of the LP collectively set out the strategic approach to housing development in the Borough. Amongst other criteria, they state that planning applications are expected to focus development at accessible and sustainable locations, and that of the target of some 13,118 homes to be

¹ Planning Inspectorate reference: APP/E2205/W/21/3284479

delivered between 2018 and 2030, 1,000 homes are expected to be delivered on unidentified windfall sites.

11. The appeal site is greenfield land lying alongside Ashford Road which runs through the village. It is not an allocated site, so its development would count towards the 1,000 homes on windfall sites. There is development to three sides of the site, including that lying on the far side of the Ashford Road. LP Policy HOU5 further recognises that residential development adjoining or close to High Halden, among other listed settlements, will be acceptable subject to identified criteria. The main parties agree that High Halden has services and facilities to support new housing, including a primary school, public house and church.
12. Criterion a) of LP Policy HOU5 requires that the scale of development proposed be proportionate to the size of the settlement. Criterion b) of the policy requires that the site is within easy walking distance of basic day to day services and/or has access to sustainable methods of transport to access a range of services.
13. The LP allocates 1 site for housing development in High Halden, S33 Land at Hope House, for a total of 35 new dwellings. I heard at the Hearing that this site was granted permission in July 2018 and saw during my site visit that it is now under construction. In addition, I heard that a further 62 dwellings had been approved in High Halden as windfall housing sites since the LP was adopted. Neither Policy HOU5 nor any other LP policy states that windfall housing should be located in any particular location, nor does it provide a maximum number of windfall houses that any settlement should be expected to accommodate. Nevertheless, the appeal proposal together with the approved windfall developments would amount to up to an additional 90 dwellings above the 35 allocated in the LP, and which are now being built. This would represent a total of up to 125 new homes created in the village in a short period of time.
14. The appellant refers to the Office for National Statistics (ONS) estimate of High Halden's population as 1,874 in 2020, and a figure of 2.4 persons per dwelling in line with the ONS figures. This would equate to about 780 homes in High Halden, a figure in line with that suggested by the appellant during the Hearing. As the LP was adopted in 2019, it is likely that most of the occupants of the 62 windfall dwellings approved in High Halden since its adoption are not included in that estimate. As the Hope House development is still under construction, its 35 homes also would not have been counted in that estimate. The total committed and proposed 125 new homes would be a very significant increase in the size of High Halden and its population.
15. I heard during the Hearing that High Halden's services are principally focused around the village green to its east end. The appeal site is located some distance from this, on the opposite side of Ashford Road from the footpath that runs through the village, although a new pedestrian crossing is proposed as part of the appeal. This footpath is narrow, and I heard from residents during the Hearing and saw during my visit that traffic along the road travels at considerable speed. For anyone walking towards the village green from the appeal site, traffic would approach from the rear and there are no safety barriers or traffic calming measures in place. I was also advised that there is only a limited bus service in the village. Given the distance to the village green and narrow, unprotected pavement I consider that walking from the appeal site

would be an unattractive prospect for many future residents, including those with young children or with restricted mobility.

16. The committed housing development in High Halden represents a very significant increase in the number of dwellings within the village. The appeal proposal would be a significant further increase in this number and would result in a scale of development disproportionate to this relatively small settlement. In addition, the appeal site is not within easy walking distance of basic day to day services and has limited access to sustainable methods of transport to access a range of services. These factors lead me to conclude that the appeal site is not a suitable location for residential development. The proposed development therefore conflicts with the collective aims of Policies SP1, SP2 and HOU5 of the LP that have been identified above.

Character and appearance

17. The appeal site is an enclosed field divided in two by an established hedgerow towards the western end of the field. There are established lines of mature trees to three sides of the field, with a hedgerow of about 2 metres in height to the eastern boundary. The field is part of an established pattern of small scale fields within the area, recognised as a characteristic of the Biddenden and High Halden Farmlands landscape character area of which the appeal site is a part, as defined within the Council's Ashford Landscape Character Assessment.
18. The established trees to the boundaries would provide substantial screening of the proposed development from Ashford Road. They would also provide substantial screening from the west, including the nearby public right of way, and from the countryside to the south. In addition, the retention of the internal hedgerow separating the site in two can be secured with potential reinforcement as layout, scale and landscaping are all reserved matters. The Council would be able to control the size and siting of the dwellings, as well as require that appropriate new planting be provided.
19. The development would nevertheless be visible to some extent. While layout and access are reserved matters, the development would require a vehicle access and likely at least one pedestrian access. Even allowing for the two existing gated entrances to the field and potential reinforcement to the site boundary with Ashford Road, the vehicle access would allow clear views into the site and the new dwellings within it. The low hedge to the eastern boundary would also provide limited screening of the site, although the extent of visual impact from this direction would be limited due to the presence of the houses on neighbouring plots.
20. In addition, the site at present serves as a gap between developed areas to the east and west. While the site is enclosed, there are glimpses of the field and countryside beyond through the boundary planting, and at the gated entrances. This contributes to the rural character of the settlement, which is formed by the surrounding countryside that can be seen around and beyond the development along Ashford Road. The Placemaking Statement provided by the appellant shows the historic pattern of development of High Halden. From the late nineteenth century, when it principally comprised scattered clusters along Ashford Road, the settlement has experienced ongoing infill development including to two sides of the triangular Hookstead Green opposite the appeal site. With the development of the allocated S33 site, the appeal site remains

the last substantial undeveloped parcel of land within High Halden on the south side of Ashford Road.

21. The Placemaking Statement suggests that Hookstead Green forms a secondary core to the village, a feature it identifies as common in long villages within the Weald. Within such villages infill development typically closes the gaps between the historic and secondary cores. This has been the case within High Halden, with the appeal site being the last significant gap between development in the village. While infill development of such gaps follows the typical pattern of development, the loss of this gap and the views into the countryside that it affords would nevertheless cause harm to the rural character of the village.
22. While the scale and layout of the development are reserved matters, I note that the indicative layout suggests that to achieve 28 dwellings on the site these would need to be arranged several units deep projecting back from Ashford Road. Such an arrangement would result in an uncommonly intensive suburban residential appearance within the village, where dwellings are more commonly laid out in single file without development to the rear. This is not an absolute within the village, and I note in particular that the approved layout for the nearby S33 site projects a similar depth from Ashford Road with houses across much of that depth. Even so, the S33 site was allocated in the Local Plan with the appeal site retained nearby. It also has a shorter frontage onto Ashford Road, with a considerable depth of green space retained to that frontage providing a buffer. It therefore differs from the indicative layout before me, where the proposed dwellings would be built up to the site frontage. Even allowing for the established screening, the proposed dwellings would have a greater visual presence in comparison.
23. The appellant's Landscape Visual Impact Assessment concludes that the views of the development would be highly localised, that the development would be largely screened from view by the retained landscaping and that there would be no significant adverse visual effects from the development. I do agree that the visual impact would be significantly reduced by the landscaping so that it would be localised. However, I find that the loss of this undeveloped green space would be harmful overall to the character and appearance of the area. It would therefore conflict with LP Policies SP1, SP2, HOU5 and ENV3a. Taken together, these policies require that residential windfall development in the countryside conserve and enhance the natural environment.

Other Matters

24. There are several listed buildings to the east of the site along Ashford Road, with the closest being on the north side of the road. The historic core around the village green is designated as a Conservation Area. The main parties agree that the proposed development would not be harmful to the significance of these designated heritage assets. I have had regard to the Planning (Listed Buildings and Conservation Areas) Act 1990 and agree with this conclusion given the separation distance and presence of intervening development between the appeal site and the heritage assets.
25. Legal agreements were submitted by the appellant relating to contributions sought by the Council and by Kent County Council to address the effects of the proposed development. Had I otherwise been minded to allow the appeal, it would have been necessary to determine whether the contributions were justified, and whether the agreements would have secured them. However, as I

am dismissing the appeal on other grounds I do not need to consider this issue further.

Planning Balance

26. The Council cannot demonstrate a 5 year supply of deliverable housing land. Consequently, the presumption in favour of sustainable development identified in the National Planning Policy Framework (the Framework) is engaged.
27. During the Hearing the main parties agreed that the most important policies of the LP are those set out in the Council's reasons for refusal, those being SP1, SP2, HOU5, ENV3a, COM1, COM2, COM3, HOU1, IMP1 and IMP4. Of these, Policies COM1, COM2, COM3, IMP1 and IMP4 broadly address the securing and management of infrastructure contributions. Policies SP1 and SP2 set out the strategic approach to housing development in the Borough. These set the housing target for the plan period and direct development generally towards the most sustainable locations. Policy ENV3a requires that development have regard to the landscape character. Policy HOU5 specifically addresses residential windfall development in the countryside and is of direct relevance to the appeal proposal. It identifies criteria which this type of development is expected to meet, including requiring that development be proportionate to the settlement and that it be located where access to services is attainable. Insofar as they are relevant to the appeal proposal, these policies accord with the Framework and therefore attract full weight in my determination of this appeal.
28. The proposal would deliver 28 new dwellings on a windfall housing site, supporting the Government's objective of significantly boosting the supply of homes. The development would include affordable housing in accordance with local policies. Occupation of the new dwellings would provide additional support for local services and facilities, including the upgrading or replacement of the bus stop outside of the site. The development would deliver a net gain for biodiversity and ecology. It would improve pedestrian connectivity from the site into the core of the village to the east with a new pedestrian crossing proposed. There would be temporary economic benefits arising from the construction of the development. These benefits attract considerable weight overall, especially given the number of houses and shortfall in housing land supply.
29. Set against this would be the harm by reason of location of the housing, and that to the character and appearance of the area. The addition of up to 28 further dwellings would amount to the disproportionate enlargement of High Halden, given the scale of development previously approved in the village since the LP was adopted in 2019. While services are available in High Halden these are located at the eastern end of the village. Given the specific circumstances, and even allowing for the proposed pedestrian crossing, the appeal site is not well located within the village for access to the existing services. I attribute the harm arising from the location of the appeal site substantial weight, given the scale of development for which permission is sought.
30. The site is well-screened and the appeal proposal would follow the historic pattern of development in this village and similar villages in the area. Nevertheless, there would be some harm from the loss of the rural character in this countryside location. The harm arising from the effect on the character and appearance of the area would be most strongly felt within the immediate vicinity of the site, with views of the development open to those passing it. This

attracts moderate additional weight, given the localised visual impact and extent of screening.

31. The Council's shortfall in housing land has arisen due to the nutrient neutrality issue. The Council is working towards a solution on this issue and has progressed since the matter was earlier this year in the earlier decision for the site in Tenterden. I have found that the weight to be afforded to the identified conflict with the policies in the LP is such that the harm arising from the location of the proposed housing development and the effect that it would have on the character and appearance of the area would significantly and demonstrably outweigh the benefits that it would deliver. In this instance, therefore, the benefits of the proposed development do not justify determining this appeal other than in accordance with the development plan.

Conclusion

32. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR

Appearances

FOR THE APPELLANT

Ian Bull	Ian Bull Consultancy
Alastair MacQuire	ES Landscape Planning
Sebastian Willett	Clague Architects
Fraser Tolman	Tolman Homes

FOR THE COUNCIL

Alex Stafford	Senior Planning Officer
Daniel Carter	Spatial Planning Manager
Claire Marchant	Team Leader

INTERESTED PARTIES

Councillor Jessamy Blandford	Borough Councillor
John Sargent	High Halden Parish Council
Louise Goldsmith	High Halden Parish Council
Rebecca Willard	Resident
Rinus Groonewald	Resident
Terence Goodacre	Resident