



Appeal Decision

Site visit made on 5 December 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/E2205/W/21/3289740

Land south east of Bridge Close, Appledore Road, Woodchurch, Kent.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Millwood Designer Homes against Ashford Borough Council.
 - The application Ref 21/00624/AS, is dated 8 April 2021.
 - The development proposed is 31 dwellings, new access, parking and associated landscaping including 40% affordable housing and self-build plot(s).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was submitted to the Council. I have had regard to the revised Framework in reaching my decision.
3. All the policies referred to in this decision letter relate to the Ashford Local Plan 2030 (the Local Plan), unless otherwise indicated to be the case.

Background and Main Issues

4. There is no Council Statement of Case in relation to this appeal due to the local planning authority missing the deadline for submission. Furthermore, there is no Council officer delegated or committee report available for consideration. Nonetheless, the proposal was subject to the Council's pre-application advice service, and this set out those issues that the Council considered to be key considerations in regard of any future planning application for development at the site. The Appellant's Planning Statement that supported the planning application and subsequent Statement of Case sets out a list of the key issues, which reflect those provided by the Council at pre-application advice stage. I have had regard to this; however, I have amalgamated some of the issues in the interests of conciseness and to reflect policy considerations where there is overlap within those considerations.
5. The proposal has been amended during the time that the planning application has been before the Council. The proposal originally sought planning permission for 33 dwellings. However, the proposed site layout has been amended and the number of proposed dwellings has been reduced to 31. This reduction in dwelling numbers is reflected within the description of proposed development within the banner heading above.

6. The main issues raised in respect of this appeal are: -

- a) The principle of the proposed development;
- b) The effect of the proposed development on the character, appearance and landscaping of the area;
- c) The effect of the proposed development on the living conditions of occupiers, having particular regard to the development's design and layout;
- d) Affordable housing and housing mix;
- e) Highway matters; and
- f) Drainage.

Reasons

Principle of the development

- 7. The Local Plan was adopted in February 2019 and includes the Appledore Road site as a housing allocation (Site S62). Policy S62 Woodchurch, Appledore Road states "*The Appledore Road site is proposed for residential development with an indicative capacity of 30 dwellings.*" The principle of the development is accepted as this is an allocated site in the Local Plan that is supported by Policy S62.
- 8. The proposal puts forward 31 dwellings at this allocated site. This generally accords with the indicative capacity of 30 dwellings set out in the policy. Nonetheless, the appeal site does not encompass the full allocated site area relating to the site allocation under Policy S62. An area to the south of the appeal site that is part of the site allocation is not included within the appeal site proposed development area and has been identified to be within separate ownership. Therefore, the density proposed will be greater than that set out in the policy. Woodchurch Parish Council (the PC), although fundamentally in agreement with the ultimate proposal given by Policy S62, raise a holding objection to the scheme. The PC considers the housing density proposed is in excess of that recommended for this rural setting, however I am mindful that Policy S62 sets out an indicative capacity with regard to the number of dwellings.
- 9. Notwithstanding this, Policy S62 also sets out criteria that are required to be met in order for this policy to be satisfied. I will deal with these within my considerations below. These criteria are reflected within the 'main issues' set out above.

Character, appearance and landscaping

- 10. Policy S62 A) sets out that the development proposal for this site shall *Be designed and laid out in such a way to reflect the edge of countryside location and take account of the residential amenity of neighbouring occupiers. Particular attention needs to be given to the topography of the site and rising land. Dwellings should be no more than 2 storeys and design of proposals should reflect the guidelines set out in the Woodchurch Village Design Statement.*

11. Policy S62 D) also sets out that the development proposal for this site shall *Retain the mature trees on the road frontage and the hedgerows around the site boundary and enhance where possible. This should include the planting of mature trees around the southern and eastern boundaries to create screening.*
12. Policy SP6 encourages high quality design and to demonstrate careful consideration of and a positive response to specified criteria, which include character, distinctiveness and sense of place, amongst others.
13. Policy ENV3a requires all proposals to demonstrate particular regard to landscape characteristics including, amongst others, landform and topography.
14. I have been provided with comments made by the Council's Urban Design and Tree Officers. I have considered these in relation to revised layout 20.174 01 revision H.
15. The Council's Urban Design officer points toward the density of existing development at the edge of the village having an average of 20 dwellings per hectare (dph). The density of the development at the south west corner of the proposed development (units 7a-18a) is of a much higher density said to be approximately between 45-50dph. This density would create a development of cramped appearance at the western corner of the site adjacent to the countryside.
16. There are other aspects of the proposed layout that have been highlighted by the Urban Design officer. The street layout is poorly connected between units 20 and 27. The street layout and public realm is dominated by highway infrastructure including wide carriageways, large junction radii, large turning head between units 25 and 26 and would incorporate 3 cul de sacs. This would create expanses of hardstanding and a car dominated environment with clusters of car parking areas that do not integrate into the overall layout. Further to this, the open accesses on parking forecourts and tandem parking and lack of defined front boundaries would create street scenes visually dominated by driveways and car parking. There would be poor public realm within the overall layout.
17. In addition, aspects of the architecture would not reflect the character of the village due to the very consistent palette of brick and tile hanging materials proposed for many of the dwellings and the introduction of white weatherboarding on the fringes of the village. Large dormer windows are proposed within the roofscape of some of the properties and there are other matters relating to windows and wall ratios. Surrounding properties incorporate a range of materials including brick, render, timber, plain tiles, slate tiles and concrete roof tiles. White weatherboarding and large dormer windows would not reflect the existing development in the area.
18. Many of these concerns are also held by the CPRE who consider the design will have an unacceptable 'urban estate' effect. I saw that properties in the area range in both style and age, however, those existing properties at the edge of the village close to the site are generally of simple design and form. Taking those concerns raised by the Council's Urban Design officer collectively, I share the view that the proposal would create a development of overtly 'urban estate' appearance and the effect of this would be unacceptable at this edge of village location.

19. There are few trees illustrated to be planted within the site. With regard to the original scheme the Council's tree officer highlighted opportunities where future trees could be planted within the scheme. If the scope of the tree planting opportunities were realised the proposals would be of a much higher quality. The amended proposal has addressed this to some extent, however, there appears to me to be opportunity to increase the number of small-scale tree planting within the scheme. The lack of trees within the development exacerbates the urban characteristics of the development.
20. The proposal would create a new urban edge adjacent to countryside land and would create built development along almost the entire length of the southern part of the appeal site with only small gaps between dwellings. Furthermore, the development would be built close to the southern boundary of the appeal site with the residential gardens of the proposed dwellings abutting the countryside.
21. The southern edge of the development will be visible from Appledore Road when approaching Woodchurch. The layout plan shows a broken line of trees along the southern boundary of the site. Whilst this would create some screening, the spacing would not significantly obscure views of the development. Therefore, this would not screen the development in views from the south. Given the extent of built development proposed along the southern boundary of the appeal site, the proposal would not be sympathetic to the rural context south of the site and would create a visually harmful settlement edge directly adjacent to the countryside. Furthermore, the trees would be within residential gardens and could be removed by occupiers. This does not demonstrate that the trees would be retained into the future, and this reduces their potential contribution to meaningful screening.
22. The CPRE comment that a buffer is required to soften the edge of the development, however the residential gardens are too short to achieve this. The CPRE considers that the cumulative impact of the development would be significant and visible to the south noting that the built edge would double in length. I agree with the CPRE's comments.
23. However, it is contended that that the Council has misinterpreted Policy S62 as part D) relates to the landscaping of the southern edge of the allocated site that does not form part of the appeal site. If the remaining site were built out, I accept that the southern boundary of the appeal site would become an integral boundary within the site, as shown within the sketch plan provided by the appellant. However, there is no clear indication before me that would indicate that the land further south within the policy allocation area would be built out for residential development in the near or long-term future. It may well be that the southern boundary of the appeal site would become a new village edge boundary. As such, Policy S62 should be read in its entirety, and this includes the requirement at A) for the development to be designed and laid out in such a way to reflect the edge of countryside location.
24. Further to the above, Policy S62 does not provide an explicit buffer width requirement, nor does the policy text provide an explicit internal landscape requirement. I have found that the proposal would not be sympathetic to the rural context south of the site and would create a visually harmful settlement edge directly adjacent to the countryside. The development as proposed would not, therefore, include a meaningful screening belt along the southern

boundary that would screen views of the development from the south. Furthermore, the proposed landscaping trees would be in private gardens, and this brings into question the ability to retain those trees for screening purposes. Whilst the extent of landscape buffer is not explicitly defined, as proposed, there is a lack of sufficient buffer landscaping along the southern boundary of the appeal site. As such, the harm that I have identified would not be satisfactorily addressed.

25. In overview, the proposal will create a new edge of settlement development by extending the development into the rural landscape. The character of the development would be predominantly one of urban appearance. This would both be out of keeping with local context and the looser knit edge of village character and would create a development of overtly urban appearance at the edge of the settlement. Furthermore, there would be insufficient buffer width along the southern boundary for effective and contextual landscape mitigation. As a result, this would not create a development designed and laid out in such a way that would reflect the edge of countryside location as required by Policy S62.
26. For these reasons, the proposed development would have a harmful effect on the character, appearance and landscaping of the area and this brings the proposal into conflict with Policies S62 A) and D), SP6 and ENV3a.
27. The appellant's Statement of Case refers to Policy HOU5 that relates to residential windfall development in the countryside. However, this site is allocated under Policy S62 for housing and as such this would not represent a windfall site to which Policy HOU5 should be applied.

Living conditions

28. Policy S62 A) also sets out that the development proposal for this site shall *Be designed and laid out in such a way to reflect the edge of countryside location and take account of the residential amenity of neighbouring occupiers*. Local concern has been expressed to matters pertaining to loss of privacy, light and noise generated by the development, amongst other matters.
29. In terms of impact on adjacent residential properties in Brattle and Bridge Close, there is existing boundary screening between the properties and the site which the appellant advises will be maintained and enhanced. On the available evidence I have no reason to doubt that all of the new dwellings would conform to the adopted space standards in terms of garden depths. There would be separation between existing dwellings and the proposed dwellings. I see no substantive reason why unacceptable overlooking and/or loss of privacy would occur.
30. All dwellings including the apartment building are designed to be a maximum of two storeys in height, as required by Policy S62 A). The development would not have an unacceptable impact in terms of dominance or overshadowing on the adjacent residential properties. With regard to noise, the proposal would be a residential use of the site. The noise levels generated would be akin to that ambient noise generated within a residential area and would not be out of keeping with the noise levels of the village.
31. Policy HOU12 requires all new residential development, including dwellings created through subdivision or conversion, to comply with the Nationally

Described Space Standards. Policy HOU14 requires all 'new build' homes to be built in compliance with Building Regulations Part M4 (2) as a minimum standard. Policy HOU15 states that unless drawings indicate alternative provision of private useable external open space, new dwellings, whether created as 'new build', subdivision or conversion shall be provided with an area of private open space. This policy sets out criteria that are required to be met.

32. The appellant advises that the proposed units would conform to both the Council's adopted and national guidelines on residential space standards. I note that the appellant has also submitted a unilateral undertaking in support of the appeal that would bind the development to be built in compliance with Building Regulations Part M4. There is no substantive information before me that would indicate that the requirements of these policies would or could not be satisfied in the interests of the residential living conditions of neighbouring occupiers.
33. For the above reasons, the proposed development would not have a harmful effect on the living conditions of occupiers, having particular regard to the development's design and layout. The proposal would therefore comply with Policies S62, HOU12, HOU14 and HOU15.

Affordable housing and tenure mix.

34. Policy HOU1 requires the provision of affordable housing on all schemes promoting 10 dwellings or more (and on sites of 0.5 hectares or more), with provision being not less than the area specific requirements set out in the table. All proposals are expected to meet their full affordable housing provision on-site. 40% of the total number of dwellings on the site are expected to be affordable. The Council also has adopted an Affordable Housing Supplementary Planning Document (SPD) (March 2009).
35. In terms of affordable housing 40% of the proposed development is to be provided as affordable housing. This equates to 12 dwellings within the proposed development. The Council's Housing Services adviser indicates that 12 units coming forward as affordable housing on the site would be policy compliant.
36. With regard to tenure mix, Policy HOU18 requires development proposals of 10 or more dwellings to deliver a range and mix of dwelling types and sizes to meet local needs. The specific range and mix of dwellings to be provided should be informed by proportionate evidence that is robust, up to date and provides an assessment of need.
37. The 12 affordable units would be a mix of shared ownership and affordable rent (10 shared ownership and 2 affordable rent). However, the Council's Housing Services adviser has indicated a requirement of 3 units for affordable rent, 1 more than proposed, and 9 units for affordable home ownership, 1 more than required. The Council's Housing Services adviser also raises concerns regarding the shared ownership flatted units, especially those one-bedroom units. Whilst there is difference in the tenure ratios, the parties are not far apart in regard of the tenure mix. There is no substantive evidence before me that might indicate a satisfactory resolution between parties could not or would not be reached in regard of this matter.

38. The Council's Urban Design officer has commented that the affordable housing is poorly integrated into the development and would result in it being fragmented from the rest of the development and positioned at a segregated place. Woodchurch PC have referred to the White Paper on Social Housing (November 2020) and would prefer to see the social housing integrated as in integral part of the scheme, as advocated by the Paper, rather than concentrated at one corner within the site. Furthermore, The Council's Housing Services adviser indicates that ordinarily it is expected that the affordable housing units are spread throughout the site rather than positioned in a cluster. However, I note from the appellant's Statement of Case that it is said the affordable housing would be distributed within the development, which contradicts what is understood to be the position by those making representation, as noted above.
39. Nonetheless, the Council's Housing Services adviser comments that most importantly the affordable housing properties are expected to be visually integrated into the site and not discernible from the open market dwellings. Whilst it is said that integrating the affordable housing units is integral to creating a mixed and balanced community, it is also commented that given the size of the development the Housing Services adviser is satisfied with their positioning. On the basis that the location of the affordable housing would be acceptable to the Council, I am not led to come to a different view on this matter.
40. Further to the above, Policy HOU6 states that in villages and rural areas sites delivering more than 20 dwellings must supply no less than 5% of serviced dwelling plots for sale to self-build or custom build plots and sets out criteria that is required to be met.
41. In this particular case up to two plots would be allocated for self-build or custom build. The appellant has also submitted a unilateral undertaking in support of the appeal that would bind the development to include provision for self-build or custom build plots within the development.
42. For the above reasons, the proposed development would make satisfactory provision for affordable housing and self-build or custom build plots, and I consider that the affordable housing tenure mix could potentially be resolved between parties. The proposal would therefore not materially conflict with Policies HOU1, HOU6 and HOU18.

Highways matters

43. Policy S62 B) sets out that the development proposal for this site shall *Provide primary vehicle access from Bridge Close, as shown indicatively on the Policies map and C) Provide new pedestrian footways throughout the development and connections to existing routes.*
44. The primary vehicular access would be taken from Bridge Close. New footways would be provided from Bridge Close into the new development and there would also be an incorporation of shared footways/access road to reflect the village location. The proposal follows the requirements of Policy S62.
45. Kent County Council's Highway and Transportation adviser has commented on the proposed development. It is advised that issues relating to the double yellow lines at the proposed access leading from Bridge Close have not been

addressed and this is a highway safety issue. It is also commented that visitor parking is not well related to the development. I consider these matters could potentially be addressed and these concerns overcome.

46. For the above reasons, the proposed development would not have a harmful effect on highway matters. The proposal would not materially conflict with Policy S62.

Drainage

47. Policy S62 E) sets out that the development proposal for this site shall *Provide a connection to the nearest point of adequate capacity in the sewerage network, in collaboration with the service provider* and F) *Provide future access to the existing sewerage infrastructure for maintenance and upsizing purposes*.
48. Southern Water has not raised an objection to the proposal and recommends the imposition of a planning condition to be placed upon any forthcoming permission issued that requires the details of both foul and surface water sewerage disposal to be submitted for local planning authority approval. Given that this is the statutory body and authority of matters pertaining to drainage, it appears to me that Southern Water considers adequate drainage could be provided that would serve the proposed development. This, therefore, does not lead me to conclude that parts E) and F) of Policy S62 could not be satisfied.

Other considerations

Flood Management

49. Policy ENV6 indicates that development will only be permitted where it would neither create an unacceptable risk of flooding on the site itself nor increase flood risk elsewhere. A Flood Risk Assessment was submitted in support of the planning application. The site-specific flood risk assessment determines that the development site is located entirely within Flood Zone 1 which has a low probability risk of flooding from rivers or other sources of flooding.
50. Policy ENV9 requires all development to include appropriate sustainable drainage systems (SuDS) for the disposal of surface water, in order to avoid any increase in flood risk or adverse impact on water quality, and to equal the drainage from the pre-developed site.
51. I note that local representations highlight flooding to have taken place locally, particularly in regard of the public highway in the vicinity of the site. It has been said that the existing sewerage system gets backed up. However, it has not been established that this flooding relates to water emerging from the appeal site.
52. A holding objection from Kent County Council's Flood and Water Management has been raised until further clarification has been provided on a number of points raised. However, it does not appear to me that the lead advisory authority on these matters is fundamentally objecting to the proposed development. The Environment Agency considers there to be low environmental risk and in light of this does not offer comment. I consider that satisfactory flood management could be achieved to serve the proposed development. As such, this would obviate any conflict with Policies ENV6 and ENV9.

Parking

53. Policies TRA3a and TRA6 relate to residential developments in rural locations and cycle parking. The Council also has adopted a Residential Parking SPD (October 2010).
54. The appellant indicates that parking would be provided in accordance with Ashford Borough Council's minimum parking standards for residential development in rural locations. Visitor parking would be provided at a ratio of 0.2 spaces per dwelling, to be distributed evenly throughout the site. Dwellings would have one, two or three allocated parking spaces depending on the size of the dwelling and there would be a total of 79 parking spaces on the site including 6 spaces for visitors.
55. The appellant also indicates with respect to cycle parking, that this would be provided within the residential curtilage of each dwelling, as set out in the adopted Ashford Local Plan. Bike storage for a minimum of two adult bikes would be provided to each of the residential dwellings. The flats would have a communal cycle store.
56. On the evidence available to me I am not led to doubt the relevant parking and cycle provision standards could or would not be met and that Policies TRA3a and TRA6 could be satisfied. Indeed, Kent County Council Highway and Transportation have not raised an objection to the proposal subject to some minor amendments to the parking layout.

Ecology

57. Policy ENV1 supports proposals that would conserve or enhance biodiversity. Policy ENV3a requires proposals to demonstrate regard to the type and composition of wildlife habitats.
58. In terms of ecology, a Preliminary Ecological Appraisal has been undertaken for the site in March 2021 by Bioscan. No significant ecological constraints on the development of this site have been identified and overall, the development of this site as proposed is assessed as unlikely to result in a significant ecological impact.
59. In respect of these matters the Council's Environmental Protection section does not object to the application and asks that if planning permission is forthcoming safeguarding conditions/informatives be imposed. Furthermore, Kent County Council Ecological Advice Services have reviewed the ecological information submitted in support of the planning application and advised that sufficient information has been provided. It is also sought that a condition be imposed that would secure implementation of ecological enhancements, such as, seeding of formal open spaces and the installation of bat boxes within the development. In view of this I am not led to conclude that matters relating to ecology at the site would be substantially harmed as a result of the proposed development and that Policies ENV1 and ENV3 would be satisfied. Furthermore, in respect of ecology the development could be made acceptable through the use of appropriately worded planning conditions relating to ecology.

Infrastructure and facilities

60. With regard to developer contributions, the main points of reference are Local Plan Policy COM1 (meeting the community's needs), Policy COM2 (delivering recreation, sport, play and open spaces) and Policy IMP1 (infrastructure provision).
61. The NHS have sought a contribution towards refurbishment, reconfiguration and/or extension of Woodchurch Surgery and/or Hamstreet Surgery and/or Ivy Court Surgery and/or towards new general practice premises development in the area. Kent County Council have also sought contributions relating to primary education, community learning, youth, libraries and social care. A completed unilateral undertaking has been provided in support of the appeal that would secure those contributions sought by Kent County Council but not the NHS. Had all planning matters relating to the proposal been acceptable this matter could have been taken up with the appellant.
62. The proposed development includes generous areas of incidental open space. These include a woodland play trail through the wooded copse area in the northern part of the site closest to Bridge Close, as well as open space next to the attenuation basin for drainage and a grassed area to the front of plots 23 and 24. The provision of green spaces within the site is advised by the appellant to be in excess of the Public Green Space and Water Environment SPD (July 2012) requirements and Policy COM2 in the adopted Local Plan. I consider the proposal to be acceptable in this respect.

Contamination

63. With regard to contamination, a Phase 1 Desk Study Site Reconnaissance Report has been carried out on the site. The Council's Environmental Protection adviser has asked for a condition to be imposed that would require the scheme to deal with contamination of land and/or groundwater and for this to be subject to local planning authority approval. This would ensure that the development could be made acceptable through the use of planning conditions with regard to contamination.

Other Considerations

64. Statutory consultees draw attention to other matters, such as the requirement for electric charging points, measures relating to solar gain, the promoting of fibre to the premises, amongst other matters. These matters would be required to satisfy other development plan policies. However, these could be required by appropriately worded planning conditions.
65. Woodchurch PC seek the submission of a Dark Skies SPD plan, a detailed intrusive site investigation plan, health and safety fencing plan for public areas adjacent to the road, and details of the management of the amenity area and other green spaces. The points raised by the PC can be dealt with by way of appropriately worded planning conditions or through the re-drafting of unilateral undertakings/legal agreements.
66. Interested parties have raised other concerns with regard to this proposal, including that of Kent Police. These are all important matters. However, given my findings in relation to the main and other considerations, these are not matters that have been critical to my decision.

Conclusion

67. Whilst I have found in favour of some of the main and other considerations, this does not overcome the harm that I have identified in relation to the effect of the proposed development upon the character, appearance and landscaping of the area.
68. Having regard to the above findings, the appeal should be dismissed, and planning permission be refused.

Nicola Davies

INSPECTOR