The Planning Inspectorate

Appeal Decision

Site visit made on 8 June 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/X2220/W/22/3295528
Land to the South West of Shooters Hill, Eythorne, Kent CT15 4AD

- 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 Quinn Estates against the decision of Dover District Council.
- The application Ref 21/01153, dated 16 July 2021, was refused by notice dated 29 November 2021.
- The development proposed is erection of up to 8 self-build dwellings together with public open space.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the application form and I have removed the latter parts of the description which refer to the reserved matters.

3. The proposal seeks outline permission, with details of access submitted for consideration. I have considered the appeal on this basis and have treated any plans in relation to matters of layout, appearance, landscaping and scale as illustrative.

4. A Unilateral Undertaking has been submitted with the appeal (the UU), signed 14th December 2022. I have taken this into account in determining the appeal.

5. The main parties refer to policies of a draft local plan. This is evidently an emerging plan which I understand has been recently submitted for examination. I am unclear, based on the evidence before me, how far these policies are from adoption or in what form they will be adopted post examination. As such I afford them only very limited weight. In any event, I have determined the appeal having regard to the adopted development plan at the time.

Main Issues

6. One of the Council's reasons for refusal relates to the absence of a legal agreement to secure contributions to infrastructure. The Council has confirmed that it finds the UU to be acceptable to secure such contributions and, as this matter is not in dispute, I have not dealt with it as a main issue of the appeal.

7. The main issues are:

   - Whether the site is suitably located for residential development having regard to the Council's spatial strategy;

- The effect of the development proposed on the character and appearance of the area, and;
- The effects on the non-designated heritage asset of Eythorne Station;

Reasons

Location for Housing

8. The appeal site lies outside any settlement confines but is adjacent to the edge of Eythorne. Policies CP1 and DM1 of the Dover District Core Strategy 2010 (the CS) together set out a spatial strategy for development in the District. Policy CP1 identifies settlements where development should be focused and indicates the scale and type of development appropriate to each level of the hierarchy. Policy DM1 of the CS is clear that development will not be permitted on land outside urban boundaries and rural settlement confines unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses. While Policy CP1 identifies Eythorne as a Village and suitable for some development, the appeal site nonetheless lies outside the confines of that settlement as defined by the plan. As such, the location of the site for housing would conflict with Policies DM1 and CP1.

9. The Council accept that Policy DM1 was devised as part of the strategy to deliver the quantum of housing set out in the 2010 Core Strategy, which has since increased. The Council accept that DM1 is more restrictive than the National Planning Policy Framework (the Framework) in terms of its approach to the location of housing, and can be considered out of date. In light of this, I ascribe the conflict with Policy DM1 little weight.

10. The site lies immediately adjacent to the edge of the Village, and the proposal would provide some support to its services and facilities, and residents would have access to the bus services which serve it. While I do not have details regarding the final form that the emerging local plan may take in this respect, I note its intention to effectively upgrade Eythorne to a Local Centre, which would amend its strategy for growth. For these reasons, I consider this edge of settlement location to be appropriate, and not at odds with the settlement hierarchy at Policy CP1 through supporting some development in Villages.

11. In conclusion on this main issue, although the location of the proposal would conflict with part of the development plan, for the reasons given I afford that conflict limited weight and I find the location to be acceptable for housing.

Character and Appearance

12. Eythorne comprises two parts, known as Upper and Lower Eythorne. These extend in part along the slopes of a gentle sided valley, of which the railway line runs along the lowest ground. The appellant's Heritage Statement identifies a clear gap between Upper and Lower Eythorne in the early history of the settlement. The eastern side of Shooters Hill at this lowest point is characterised by housing of varying designs and includes infill development on Meadow Way, which is understood to have replaced former railway buildings.

13. By contrast, the western side of Shooters Hill comprises parcels of open land which enclose Eythorne Station, as well as belts of trees and hedgerows. As a consequence, there is a more open and verdant character to the western side

of Shooters Hill, which contributes to the visual break and distinction between the two parts of the settlement and the appreciation of their rural setting.

14. The appeal site lies to the north of the station and currently comprises grassland used for grazing. A public footpath runs through the site and connects to a network of footpaths which extend around the open spaces and woodland along the bottom of the valley. While the site adjoins other open land only to the south west, it nonetheless forms one of the open spaces which contribute positively to the character and appearance of this part of Shooters Hill, particularly as views are possible over the appeal site to the other open land behind.

15. The wider area is covered by Dover District Landscape Character Assessments (DDLCAs) of 2006 and 2020, as evidenced by the appellant. The latter forms part of the evidence base for the emerging local plan. The site falls within the 'Eythorne Arable Mosaic with Parkland' character area of the 2006 document, and the 'Sheperdswell Aylesham Parklands' area of the 2020 document. These identify attributes of the landscape as including undulating topography with a distinct and regular pattern of gentle ridges and valleys, a rural and tranquil landscape, small enclosed settlements and mixed building types.

16. The appellant has submitted a Landscape Visual Impact Assessment (LVIA), which considers the effects of the proposal on a number of short and mid range views, including from public footpaths to the south west. An addendum, considering additional longer-distance views in winter, has also been submitted with the appeal. I consider the views from where the effects of the development would be most significant would be those on Shooters Hill (VP2 and VP3) as well as from the edge of the site and from the south west across the valley floor (VP1 and VP8). In those views, the open nature of the site is apparent, albeit with the existing built forms to its northern and eastern sides, and the site integrates into the areas of grassland which contribute to the rural character on this side of Shooters Hill. While the site layout and scale are not established, and despite the comparatively low density, the indicative layout suggests the vast majority of the site would be developed with housing and the associated driveways, gardens and paraphernalia associated with a residential use. As such, the open nature of the site would be substantially eroded and the resulting character would be in stark contrast to the rural character of this area described above. From those views, the encroachment of residential development into the countryside would be apparent and prominent. I do not consider that change to be negligible nor slight.

17. In other nearby view points, the belts of trees and hedgerows and the structures and embankments associated with the station would provide a degree of screening. However, glimpses of the development would be likely, particularly in winter months, and the encroachment of the development into the open character would be apparent, albeit to a lesser degree. In longer views, the development would appear among the backdrop of the village setting and existing developments, and its visual effects would be substantially lessened by the intervening mature landscaping and undulating landscape. I do not find that harm would arise in those longer views.

18. While there is a cluster of other development along Shepherdswell Road to the west surrounding Eythorne Court Barn, these buildings incorporate a traditional rural appearance through their form and materials and by being set in spacious

grounds. As such they read as part of the rural setting rather than an extension to the village.

19. The LVIA refers to a landscape-led approach and sympathetic layout and design to ensure that the development would integrate into the landscape character without significant adverse effect. However, such details are not before me for consideration and it cannot be established with certainty that these factors would acceptably mitigate for the harmful visual impacts of the development. While many residential developments on greenfield land will give rise to a change in landscape character and may cause some degree of harm, the extent of that change and harm will depend on the site specific circumstances and generalised assertions regarding development on greenfield land would not provide justification for the appeal scheme.

20. The proposal would cause harm through the loss of open land which contributes positively to the local character and the landscape setting of Eythorne. As such, and in conclusion on this main issue, the proposal would cause harm to the character and appearance of the area. The proposal would conflict with Policies DM15 and DM16 of the CS which relate to protection of the countryside and landscape character. For the reasons given, the proposal would also conflict with the Framework which requires decisions to recognise the intrinsic character and beauty of the countryside and for developments to be sympathetic to local character including the surrounding built environment and landscape setting.

21. I note concerns regarding the conformity of those local policies with the Framework, particularly their restrictive components. However, insofar as relevant to the appeal and my assessment, there is a degree of consistency with the Framework, given their objectives to protect landscape character and the countryside.

Non-Designated Heritage Asset

22. The main parties agree Eythorne Station can be considered as a non-designated heritage asset due to its historic significance. The DDLCAs 2006 and 2020, evidenced by the appellant, reference links to historic coal mining among the key characteristics associated with the landscape character for this area, and the 2020 document specifically references Eythorne in this regard. The existing station served the East Kent Coal Field and played an important role in the storage and transport of arms and ammunition during World War II.

23. While the station and the structures associated with it may have changed and adapted over time with its use, together they retain historic significance by memorialising the former functioning station. The decorative signal box and monument commemorating the former colliery, in particular, represent notable features of interest, accentuate the historic significance of the station and are visually prominent from the nearby roads. The station is also prominent from the public footpath which crosses the appeal site. Paragraph 203 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

24. While there is not evidence that the appeal site has a functional relationship with the station, it has a visual relationship through contributing to its rural setting. In addition, the appeal site affects the ability to appreciate the

significance of the asset through allowing largely uninterrupted views of the station from public view points on Shooters Hill and its junction with Wigmore Lane, as well as the public footpath. In those views the raised level of the platform and structures, particularly the recreated signal box and memorial, can be clearly appreciated. The proposed development would therefore affect this setting.

25. The introduction of housing on the site, shown on the parameter plan to be up to two storeys, would introduce substantial built forms to the site. These would be close to the station and compete with and detract from its features. A tree buffer would exist between the station and the new homes, however this would be limited in its size and would not mitigate for the effects of the proximity of the new development. The proposed houses would also substantially interrupt, and likely result in the comprehensive loss of views of the station from the nearby roads and view points. As such, the effects of the proposed development would be harmful to the ability to appreciate the asset, and to its setting.

26. The Framework requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. In the case of the appeal scheme, I consider the harm identified to the significance of the asset to be substantial. This feeds into the balance of considerations below. Insofar as this main issue is concerned, the proposal would conflict with the objectives of the Framework relating to the desirability of sustaining and enhancing the significance of heritage assets.

Other Matters

27. The UU would secure financial contributions towards local infrastructure, in particular towards community learning, youth services, library book stock, social care and waste. These would mitigate for the effects of the proposed development rather than providing a benefit. As the obligation is not in dispute, and as it would not make a difference to the outcome of the appeal in this instance, I have not assessed the planning obligation further.

Planning Balance

28. As a consequence of the importance of Policy DM1 to the principle of development, the Council accept that the relevant 'basket' of policies are out of date and the provisions of paragraph 11d) of the Framework should apply to the appeal. In addition, in respect of self build housing, both main parties acknowledge a shortfall in the provision of serviced plots for this purpose of varying degrees. There is not evidence of a relevant local plan policy in this regard and there is insufficient certainty surrounding the emerging local plan for me to ascribe any relevant emerging policy more than little weight. For these reasons, and in light of the conclusions of other Inspectors which have been brought to my attention, the provisions of paragraph 11d) of the Framework would also be applicable for this reason. There is dispute surrounding whether the Council have a five year land supply for housing, with the appellant finding the Council to have a 4.8 year supply. Even if I were to agree with the Council's higher figure, paragraph 11d) would be engaged in any event.

29. Paragraph 11d)ii, requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies in the Framework taken as a whole.

30. Insofar as the main issues of the appeal are concerned, for the reasons given I have not found harm arising from the location of the development. Harm has been identified to the character and appearance of the area and to the significance of the non-designated heritage asset through harm to its setting and ability to be appreciated. These adverse impacts would be significant and long lasting and, in both respects, would create conflict with the Framework. I ascribe these harms substantial weight.

31. The proposal would deliver 8 new homes. If the appellant's figure were used, the Council's housing land supply is just below five years. The proposal would make a modest contribution to the local housing supply and towards the national objective to boost the supply of homes. These would be on the edge of an existing settlement, where they would support, and have good accessibility to, the services and facilities contained in Eythorne as well as access to bus services. The homes would be on a small site, which the Framework acknowledges as one which can make an important contribution to meeting the housing requirement of an area, and can often be built-out relatively quickly. Through contributing to the local housing stock those homes could, potentially, be occupied by existing occupants of the village and their families.

32. In addition, those new homes would be delivered on serviced plots for self-builds, for which both main parties acknowledge there is unmet demand. There is a significant difference in the extent of the demand which the main parties consider to exist. I do not intend to scrutinise the Council's actions surrounding the introduction of its local connection test. However, I note the serious concerns for those persons who were registered prior to the inclusion of the local connection test and then removed, and those planning permissions which the Council alleges contribute to meeting the demand but were not secured for this purpose. These factors add significantly to my concerns for the uncertainty surrounding the level of unmet need and casts considerable doubt over the figures provided by the Council. In any event, it is apparent that there is a significant unmet demand for serviced plots, which would be eased by the appeal scheme. As insufficient permissions have been given to meet demand in accordance with the Council's statutory duty, weight should be afforded to the provision of the serviced plots. Taking these factors together, the provision of new self-build housing attracts moderate weight in favour of the development, given the scale of the proposal.

33. Biodiversity net gain could be achieved dependant on the layout and landscaping, and economic benefits would arise through the creation of construction jobs as well as increased expenditure into the local economy. However, these benefits would be modest, similarly given the scale of the proposal.

34. The proposal has the ability to aesthetically complement the surrounding buildings and include appropriate new planting and sustainability credentials. However, as details of these matters are not before me I do not afford them weight in favour of the development. As above, the proposal would deliver financial contributions towards local infrastructure, but as mitigation only for the development itself this is a neutral matter. Given the scale of the proposal, the generated New Homes Bonus would be limited, and new Council Tax

payments would be used to pay for services required by new residents. As such this would not amount to a benefit.

35. Overall, while there would be some benefits arising from the proposal, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Conclusion

36. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR