



Appeal Decision

Site visit made on 27 July 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2023

Appeal Ref: APP/E2205/W/22/3305234

Land south west of Viaduct Terrace, Warehorne Road, Hamstreet, Ashford TN26 2DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr A Mathews against the decision of Ashford Borough Council.
 - The application Ref 21/01135/AS, dated 14 June 2021, was refused by notice dated 25 April 2022.
 - The development proposed is erection of 4no. semi-detached and 2no. detached dwellings along with a block of 6 apartments with associated parking.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Dr Mathews against the decision of Ashford Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. The address used in the banner heading above is taken from the application form. The description of development used in the banner heading is also taken from the application form and I have removed the latter parts of the description, which refer to the site address and neighbouring development.

Main Issues

4. The main issues are: (a) the effect of the development proposed on the character and appearance of the area, and (b) whether the development would make appropriate contributions towards affordable housing, local infrastructure and highways works.

Reasons

Character and Appearance

5. The appeal site is located close to the western edge of the village of Hamstreet which lies within a predominately rural setting. The site comprises a broadly triangular piece of land, bound on its longest sides by the A2070 and the railway line, as well as the mature tree belts which line them. To the north the site adjoins Mathews Court which includes a group of semi detached properties set on the western side of the road. These comprise two storeys with rooms in the roof space served by modest sized front dormer windows. The appeal

documents refer to this development as 'Phase 1'¹. The appeal site is largely flat, but together with Mathews Court, it sits notably above the level of the B2067 carriageway.

6. Other recent developments exist in the immediate vicinity of the appeal site which have extended Hamstreet to the west. These include a development of homes on the northern side of the B2067² as well as two new detached homes adjoining the eastern side of the appeal site³. Based on the findings of my site visit, and acknowledging that some nearby development is still under construction, the surrounding properties comprise predominantly two storeys.
7. By contrast, the proposed development would include buildings of three storeys. In many cases the treatment of the top floors would include dormers extending directly from the eaves level and gable features which would continue the building lines below. These would accentuate the presence of the top floor and provide significant bulk at the roof level. The eaves height would also appear substantially higher than those on Mathews Court, being notably above the height of the first floor windows. As a result of these features, the scale of the buildings proposed would appear heavily at odds and incongruous with the scale of other buildings in the surrounding area. Taken together with the edge of village location and higher ground level, the scale and bulk of the buildings proposed would cause harm to the character and appearance of the area.
8. There is not substantive evidence to suggest that the proposal would cause harm in long distance views from the south. The canopies of the trees surrounding the southern parts of the site would inevitably provide less screening in winter months. However, even if it were visible, in long distance views the proposal would be seen against the backdrop of other nearby developments and part of the village edge. However, this would not mitigate for, nor reduce, the visual harm arising from the scale of the development in more localised views.
9. Given the varied layout, design and materials of other developments in the vicinity of the appeal site, I do not find these features of the development to cause harm.
10. In conclusion on this main issue, the scale of the development proposed would cause harm to the character and appearance of the area. It would conflict with policy HOU5(f) of the Ashford Borough Local Plan adopted 2019 (the LP), which requires development to sit sympathetically within the wider landscape and preserve or enhance the setting of the nearest settlement. There would also be conflict with the objectives of the National Planning Policy Framework (the Framework) which states that developments should be sympathetic to local character and history, including the surrounding built environment.
11. Despite being in the parish of Warehorne, the site lies on the western extremity of Hamstreet village. I therefore see no reason why The Hamstreet Village Design Statement should not be applicable to the assessment of proposals for this site. However, and in the absence of evidence to the contrary, I do not find conflict with its objectives insofar as this main issue is concerned.

¹ Reference 19/00776/AS

² Reference 21/00880/AS

³ References 20/01100/AS and 21/00342/AS

Affordable Housing

12. Policy HOU1 of the LP requires the provision of affordable housing on all schemes of 10 dwellings or more and would therefore apply to the appeal scheme. This reflects the need for affordable homes identified by the Council's Strategic Housing Market Assessment (SHMA), which established that around 50% of all future homes in the Borough should be affordable in order to meet the housing need. A table in policy HOU1 sets out the required level and type of provision depending on location. In the case of the appeal scheme, a 40% contribution would be required and I am satisfied that the affordable housing requirement would meet the tests for a planning obligation set out in the Framework and Community Infrastructure Levy (CIL) Regulations 2010.
13. It is unclear whether the required contribution and mix has been agreed, however, I note the Council's report refers to the entire block of 6 flats providing affordable homes. While this would not include family homes, the Council's housing service considered this to be a suitable arrangement for management purposes and the provision of 6 affordable homes would exceed the policy requirement.
14. There is no mechanism before me to ensure that the affordable homes would be secured if planning permission were granted, for example in the form of an obligation or legal agreement. In the absence of a means to secure and deliver the affordable homes, affordable housing would not be secured and the proposal would be in conflict with policy HOU1 of the LP set out above.

Infrastructure

15. Policy IMP1 of the LP states that development shall make provision to meet the additional requirements for infrastructure arising from the development, where it is justified to do so in line with the Framework and CIL Regulations. It goes on to state that provision should be made either by delivery of infrastructure or by financial contributions towards the cost of delivery. Delivery of infrastructure to support development is also a requirement of policy SP1e). Policy COM1 similarly relates to provision of community infrastructure to meet the needs generated by new development, and policy COM2 refers to the need for development to meet the need it generates for recreation, sport, play and open spaces. Together these policies provide a basis for the Council to seek contributions to infrastructure which would support and mitigate the effects of new development.
16. The Council, and Kent County Council (KCC), have set out the contributions that it considers would be necessary to mitigate for the impacts of the additional homes on local infrastructure. I have assessed those obligations in light of the CIL Regulations 2010 and paragraph 57 of the Framework, which includes consideration of their necessity, below.
17. Outdoor sports pitches, informal/natural green space, children's and young people's play space, allotments and strategic parks: The Council's Public Green Spaces and Water Environment Supplementary Planning Document (SPD) sets out that provision should be made for different types of green space and water features. It sets out in Table 1 the quantitative standard for each type of open space which will be applied in the Borough, set out as the number of hectares required per 1000 people. This includes outdoor sports pitches, informal/natural green space, children's and young people's play space,

allotments, strategic parks and cemeteries. Based on these standards, the SPD sets out a formula to calculate the requirement per dwelling. The proposed development would not include spaces of the nature required, and as such, the SPD sets out that a financial contribution towards provision or improvement of those spaces off-site, should instead be provided. While other open spaces may exist near the appeal site which could be used by future occupiers, there is not substantive evidence that these would achieve the objectives set out in the SPD.

18. The SPD sets out the associated costs with the delivery and maintenance of those spaces. Based on the evidence before me, I find those financial contributions would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related in scale and kind to the development.
19. Adult Social Care: The proposal, by introducing more residents, would increase pressure on Social Care services which support a variety of groups. KCC report that there is no spare capacity to meet the arising additional demand and no spare funding is available. Based on the evidence before me, I have no reason to doubt this position. As such, a contribution is required to mitigate the effects of the proposal on this service, to contribute towards measures including specialist care accommodation, assistive technology systems and adapting community facilities. The KCC Developer Contributions Guide (DCG) adequately explains the cost calculated per dwelling and, for these reasons taken together, this requirement meets the tests for a planning obligation.
20. Community Learning: KCC report a shortfall in the provision of learning facilities and services for further education with participation exceeding current service capacity. The contribution sought would provide towards additional equipment and resources at existing centres and outreach venues and the means by which the contribution has been calculated has been set out. This also meets the tests for an obligation.
21. Libraries: The development would generate additional demand on local libraries and KCC report a shortfall in the provision of this service which necessitates contributions from new homes to help meet demand and provide the required service. As the extent of the contribution is similarly justified by the DCG, this meets the tests for an obligation.
22. Primary Schools: The Council set out that the additional primary school places required by the development, necessitates a contribution towards the expansion of nearby primary schools. The DCG sets out the cost calculated according to houses and flats and I am satisfied that it has been demonstrated this meets the required tests.
23. Youth Services: The development proposed would increase pressure on educational leisure-time activities for young people. Again a shortfall is reported in the provision of this service with demand exceeding capacity. The financial contribution sought would provide additional resources required to meet the demands generated by the proposal. The DCG sets out the required contribution per dwelling. This similarly meets the required tests.
24. Monitoring: Given the nature and extent of the obligations set out above, some degree of monitoring would be necessary, which would not exist if it were not for this development. The Council have suggested a fee and the DCG sets out

how such a monitoring fee is calculated. I am satisfied that a contribution to monitoring in this manner would be necessary if other such obligations were secured.

25. Art Sector and Voluntary Sector Services: It is not clear how the need for these contributions arise from the proposal nor how the extent of the contributions has been calculated. On the basis of the evidence before me, they would not meet the tests and would not be necessary to make the development acceptable.
26. Secondary Education Contributions: There are discrepancies within the evidence regarding the need for, and extent of a contribution towards secondary school places with no contribution considered necessary at the time of the application. Given the absence of narrative surrounding this particular matter, and discrepancies in the effects arising from this proposal, I cannot be satisfied that the contribution sought meets the relevant tests.
27. Indoor Sport: Similarly, there is little evidence before me demonstrating the need for a contribution towards indoor sport, particularly as the SPD has a focus on facilities for outdoor sports. As such, I cannot establish that this would meet the required CIL and Framework tests.
28. Highways Works: The Council's officer report states that a requirement to enter into a S278 agreement should form a planning obligation in order to secure a footpath link and pedestrian crossing on Warehorne Road to connect with the footpath on the northern side of that road. While this would be a welcome addition and would encourage walking into the village, it is not clear based on the information before me, that this crossing would be necessary to make this particular development acceptable. This is particularly as the existing connections to the village are used by the existing and recently completed properties on Mathews Court. As such this would not meet the tests for an obligation.
29. In light of the assessment above, planning obligations in respect of the following would be necessary to make the development acceptable: outdoor sports pitches, informal/natural green space, children's and young people's play space, allotments, strategic parks, adult social care, community learning, libraries, primary schools, youth services and monitoring. The appeal before me does not include any legal agreement or suggested means by which those obligations could be secured if the appeal were otherwise allowed.
30. I have considered whether these matters could be addressed through the imposition of a planning condition. In the absence of agreement on these matters I do not consider such a condition would be reasonable. With regard to a negatively worded condition, Planning Practice Guidance (PPG) states that such a condition is unlikely to be appropriate in the majority of cases and this should be done in exceptional circumstances. I do not have evidence before me of exceptional circumstances in this case and as such, in line with the PPG, such a condition would not be appropriate.
31. In the absence of those obligations, the proposal would place additional unacceptable pressure on local infrastructure. Consequently, the proposal would conflict with policies SP1, IMP1, COM1 and COM2 of the LP and the Public Green Spaces and Water Environment SPD which are summarised above and relate to the need for development to mitigate its effects on infrastructure.

There would also be conflict with the objectives of the Framework relating to creation of safe and healthy communities.

32. Insofar as this main issue is concerned, I do not find conflict with policy HOU5(b) relating to sustainable transport nor policy COM3 relating to the loss of existing allotments and design of new allotments.

Other Matters

33. I appreciate the appellant's significant concerns about the treatment of the planning application and its determination by the Council. However, this is not a reason in itself to allow the appeal and would not add weight in favour of granting planning permission. I have considered these matters further in the associated Costs Decision.

Planning Balance

34. The Council accept that it cannot demonstrate a five year land supply for housing. As such, paragraph 11d) of the Framework is relevant to the appeal and states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
35. For the reasons given, the proposal would cause harm to the character and appearance of the area through its scale. It would fail to provide housing for those who require affordable homes and would create pressure on several areas of local infrastructure which include services identified as already being under stress. The result of these harms would be significant and long lasting, and would be in conflict with the Framework for the reasons set out above. As such I ascribe them substantial weight.
36. The proposal would make a modest but meaningful contribution to the local housing supply and would contribute to the national objective to boost the supply of homes. These would be located at the edge of an existing settlement and would have reasonable accessibility to the services and facilities within Hamstreet including onward public transport links. The proposals would also provide a mix of housing types including houses and flats. I note the letters of support in favour of the proposal, which refer to these matters. There would also be some economic benefit arising from the construction process and ongoing expenditure by future residents. The weight which can be given to these benefits is however, limited by the number of homes proposed and I attach moderate weight to these benefits together, given the scale of the proposal.
37. The proposal may also prevent the land from being derelict and being used for fly tipping. However, the appeal scheme would not be the only solution to address these concerns and I ascribe these benefits little weight.
38. Consequently, 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. The proposal would not benefit from the presumption in favour of sustainable development set out at paragraph 11.

Conclusion

39. For the reasons given, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR