



Appeal Decision

Site visit made on 8 February 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/J2210/W/23/3323592

Land South East of Dargate Road, Yorkletts, Whitstable, Kent CT5 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Geering of Quinn Homes against the decision of Canterbury City Council.
 - The application Ref is CA/22/02062.
 - The development proposed is described as 'outline application for 9 self-build homes with all matters reserved except access'.
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Decision

1. The appeal is allowed and planning permission is granted for nine self-build homes at Land South East of Dargate Road, Yorkletts, Whitstable, Kent CT5 3AH in accordance with the terms of the application, Ref CA/22/02062, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The proposal seeks outline permission, with details of access submitted for consideration. I have treated any plans in relation to matters of appearance, landscaping, layout and scale as illustrative, since these would be the subject of further submissions. A detailed drawing of the access, contained in the Transport Statement, is shown to be indicative and I have considered it on this basis.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2023 version of the Framework. The parties have referred to policies of an emerging local plan, which I understand to be at an early stage of its preparation. These do not yet form part of the development plan and I have referred to them accordingly below.
4. A Unilateral Undertaking has been submitted with the appeal, dated 11 March 2024 (the UU). This relates to mitigation for effects on the nearby habitat sites and particulars for self build homes. This document has been taken into account in the determination of the appeal.
5. The Council's reasons for refusal refer to the effects of the proposal on ecology and protected species, and on the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Thames, Medway and Swale SPA. Through the exchange of evidence through the course of the appeal including the completion of the UU, these matters are no longer in dispute between the main

parties. As such I have dealt with them under Other Matters, rather than as main issues.

Main Issue

6. The main issue is whether the location of the appeal site would be suitable for new housing, having regard to the Council's spatial strategy and accessibility to services and facilities.

Reasons

7. Policy SP4 of the Canterbury District Local Plan 2017 (the LP) contains the Council's strategic approach to the location of development. It states that three urban areas, including Whitstable, will be the focus for development, together with development at rural service centres and local centres. Yorkletts is not among the settlements specifically listed in Policy SP4, as such the development can be considered to be in the countryside for the purposes of this policy. As the proposal would not be required for agricultural or forestry purposes, it would conflict with Policy SP4.
8. LP Policy HD4 gives circumstances where new dwellings in the countryside would be granted and, in the absence of evidence of compliance with any of those points, the proposal would also be in conflict with that policy. The supporting text for the policy, however, states that the policy is intended to respond to the presumption against isolated homes in the countryside contained in the Framework. Given the location of the proposed development, being within Yorkletts and close to Whitstable, discussed further below, the appeal site is not isolated. The LP at paragraph 2.58 goes on to state that development within existing villages, that is appropriate to the size and character of the village, is generally acceptable in principle and the provision of housing development within some villages is likely to continue, adding to the existing housing stock in the rural area.
9. The appeal site is set centrally among the linear residential development which forms Yorkletts. Facilities around the petrol station on the southern side of Thanet Way are a short distance from the appeal site and include a convenience store and coffee shop, which have the ability to serve some of the day to day needs of future occupants. Potential employment uses, including those on Plumpudding Lane and at Lamberhurst Farm, also exist a short distance from Yorkletts. There is not a consistent footpath on Dargate Road and street lighting is limited, and together these attributes may deter some people from walking along the road to access these facilities at certain times of day.
10. The evidence suggests a bus service runs through Yorkletts, providing links to Seasalter and Whitstable. There are similarly not consistent footpaths and lighting leading to these other settlements and, as a consequence, there would very likely be some reliance by future occupiers on private cars. However, the appeal site is a short drive from the services and facilities of Whitstable and Seasalter and the relationship of Yorkletts to Whitstable has previously been acknowledged by the Council among earlier decisions¹. While I appreciate these predate the current development plan, they nonetheless suggest a degree of connection between Yorkletts and Whitstable, which remains the case. For

¹ Council references CA/09/01633/FUL CA/12/01698 and CA/22/2517/FUL

these reasons taken together, I do not consider the site to be in an entirely unsustainable location.

11. The emerging local plan has been cited by third parties and describes Yorkletts as a hamlet and an unsustainable location for new housing. However, this emerging plan is at an early stage in its preparation and there is not sufficient certainty of the final form which its housing policies will take post examination and adoption. There is also not substantive evidence with this appeal of how a zero sustainability rating for Yorkletts has been derived, given my findings above. As such I can only give very limited weight to these emerging housing policies and the effects of the supporting documents. Neither can the proposal be considered premature in light of the criteria for prematurity set out in the Framework.
12. In conclusion on this main issue, the proposal would conflict with the Council's spatial strategy for new development, but I find it is suitably located in terms of its accessibility to services and facilities. The proposal would nonetheless conflict with policies SP4 and HD4 of the LP, and I return to the matter of the weight to be given to this conflict below. I do not find conflict with the Framework, which seeks, among other things, for housing to be located where it will enhance or maintain the vitality of rural communities, and which acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Other Matters

Ecology and Protected Species

13. The main parties agree that a landscaping scheme which includes native species and opportunities to maximise biodiversity value could reasonably be secured by condition. Landscaping would fall to be considered at the reserved matters stage and I have no reason to believe that a suitable scheme, which achieves those ecological objectives, could not reasonably be achieved.
14. Concerns have been raised in respect of the proposed receptor site for reptiles with an alternative location suggested by the Council's Ecologist. The main parties similarly agree that this could be controlled by condition and on this basis I have no reason to believe that a solution could not be reached. In respect of effects on Great Crested Newts, the appellant has provided an Impact Assessment and Conservation Payment Certificate, countersigned by Natural England. As such, the site is suitable for District Level Licensing, meets the favourable conservation status test and would secure adequate compensation for any impacts. On this basis I am satisfied that any potential harm to Great Crested Newts would be adequately mitigated.
15. The site adjoins the habitats associated with Victory Wood to the south, which is reported as accommodating protected species and is clearly a highly valued nature facility. There is little information relating to the potential of Victory Wood to form a designated Special Area of Conservation. However, based on the evidence before me including surveys undertaken by the appellant which recorded species from Victory Wood and responses of the Council's Ecologist, I am satisfied that the proposal would have acceptable effects on protected species and the nature conservation objectives of that site, subject to the imposition of relevant conditions.

16. Given the distance of the area of proposed development from Ellenden Wood and areas of designated ancient woodland, there would not be harmful effects on these areas. Overall the proposal would comply with LP Policy LB9 which relates to biodiversity, including enhancements and effects on protected species.

Habitat Sites

17. The Thames, Medway and Swale SPA is designated for its importance to bird species and bird migration. Similarly, the Thanet Coast and Sandwich Bay SPA is designated for its bird interest, in particular over-wintering Turnstone, European Golden Plover and Little Tern. Both SPAs are also listed as wetlands of international importance under the Ramsar Convention, and their conservation objectives include the need to ensure that the integrity of the sites are maintained or restored as appropriate. In the case of both SPAs, evidence suggests that significant effects on bird populations are arising from recreational disturbance associated with new housing, particularly from human activity and dog walking. These effects arise particularly from development in areas surrounding the SPAs.
18. Due to the location of the proposed development and proximity to the SPAs there is a pathway for effects on the integrity of the SPA. As it would introduce new housing and permanent residents which may use those areas for recreation, it would have a likely significant adverse effect on the qualifying features of the SPAs, either alone or in combination with other projects. Adopting the necessary precautionary approach, it could compromise the conservation objectives and lead to an adverse effect on the integrity of the sites.
19. The Council have produced a Strategic Access, Management and Monitoring Plan (SAMM) for the Thanet Coast and Sandwich Bay SPA and Ramsar site which will be applied to development within its zone of influence. This includes mitigation measures such as monitoring and surveying, wardening, signage and education. These would be funded by contributions arising from new development. Similarly, a SAMM exists for the Thames, Medway and Swale SPA and Ramsar site, which includes similar measures and relies on contributions from new development. Based on the evidence, Natural England agree those measures in both SAMMs are ecologically sound. As such I have no reason to believe that contributions to the SAMMs would not deliver appropriate mitigation for the effects of the proposed development.
20. The submitted UU would ensure that financial contributions were paid prior to commencement of development, in accordance with the tariffs set out in the relevant SAMMs. It would also secure monitoring and legal fees which arise from the need for the obligation. On this basis, the proposal would avoid adverse effects on the integrity of the European protected sites. The proposal would comply with LP policies SP6, LB5, LB9, and the Framework insofar as they relate to the effects of development on these designated habitat sites.

Further Matters

21. Notwithstanding the Council's reasons for refusal, the Officer's Report also refers to harm to the character and appearance of the area, arising from the spread of development into the countryside. Based on the evidence, the site lies close to two Areas of High Landscape Value, although neither extends to

the appeal site. Yorkletts is primarily linear in nature, but with occasional smaller roads extending from it. The character of the site would undoubtedly change with the introduction of houses and associated infrastructure and paraphernalia, and these effects would be apparent from the surrounding area, particularly given the raised ground levels of the site. The appellant has provided a Landscape and Visual Appraisal which considers the effects of the proposal on viewpoints close to the site as well as far reaching views and from the Area of High Landscape Value to the north. This suggests that the proposal would be concealed in some views due to vegetation and topography. Even if the development were to be visible, it would be seen among its context of other development in Yorkletts. There is not substantive evidence on this matter which would lead me to reach a different view. Given the distance from any Area of Outstanding Natural Beauty, and in the absence of evidence to the contrary, the proposal would not cause adverse impacts on these designated areas.

22. Furthermore, as the proposal is in outline at this stage, matters of site layout and the scale and appearance of the houses, and their surrounding landscaping, would be matters for consideration at a later stage. Based on the evidence before me, I see no reason why a satisfactory solution could not reasonably be achieved which would respect the established local character and landscape setting. As such, the proposal before me would not conflict with LP Policy DBE3. Similarly, given the outline nature of this proposal and the scale of the site, a solution could be achieved which would protect the living conditions of those nearest occupants, including in terms of natural lighting and privacy. These would fall to be considered at the reserved matters stage. The headlights of vehicles emerging from the site access could cause some disturbance to the occupiers of those properties opposite the access. However this is unlikely to cause harm to the living conditions of those properties when considered as a whole, and details of that access would in any event require finalising in consultation with the highways authority.
23. There would be effects arising from the construction process, including vehicles entering and exiting the site. However, these would be for a limited period and could be controlled by planning condition as well as separate legislation. Damage to property, should it occur, would fall to be considered under separate legal rights.
24. While the proposal may add pressure to existing infrastructure and the sewer system, there is not evidence to demonstrate that the nine additional homes could not be accommodated. Southern Water have commented that they can provide for foul and surface water disposal from the site, subject to a formal application. I note concerns for localised flooding and a condition can be imposed relating to the treatment of surface water drainage on the site.
25. In terms of highways effects, the proposed access is considered to be adequate, subject to the additional provisions required by the highways authority. The proposal would generate additional vehicle movements, however the residential cumulative impacts on the road network would not be severe, as described in the Framework. While I appreciate concerns for other pieces of land nearby which may be subject to housing proposals, it is necessary to assess development proposals according to their own circumstances and merits.

Planning Balance

26. The Council accept that it has failed to deliver under the housing delivery test and that the provisions of paragraph 11d) of the Framework are relevant to the appeal. In light of the assessment above, the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed. It is therefore necessary to establish whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. In terms of adverse effects, the proposal would conflict with the Council's spatial strategy for the location of new development set out in the LP. I have had regard to the appeal decisions evidenced by the appellant which include one where reduced weight was given to conflict with Policy HD4 in the case of other development in Yorkletts². In that case the Inspector considered the appeal site would not be in the open countryside given its location, nor isolated, and found that the restrictive approach to development in the countryside set out in Policy HD4 was not entirely consistent with the Framework. In the absence of evidence to the contrary here, I have no strong reason to reach a different view.
28. Furthermore, the hierarchical approach to the location of new development set out in Policy SP4 was inevitably adopted to respond to the housing need at that time. As a consequence of these factors in combination, I attach only moderate weight to the conflict which would arise with the Council's spatial strategy and policies SP4 and HD4.
29. In terms of benefits, the proposal would contribute to the housing stock and towards the national objective to boost the supply of homes. This is particularly important here given the under supply of land for homes and under delivery in the Council's administrative area, which are not disputed by the Council. The proposed homes would be self-builds, for which the Framework sets out the Council should give enough suitable development permissions to meet the identified demand. The appellant has demonstrated a significant need within the Council's administrative area and there is currently no development plan policy for its delivery. While there is an emerging policy which refers to self and custom build homes, given the plan is in the early stages of its preparation, there is not adequate certainty of the final form that policy may take, nor evidence of how far this policy is away from adoption. As such I afford it only very limited weight. In the absence of evidence to the contrary, and in considering the other appeal decisions evidenced by the appellant on this point, I ascribe significant weight to the benefit of delivering housing and self build homes.
30. In addition, the Framework acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. There would also be some biodiversity benefit to the site as well as economic benefits arising from the construction process and on going expenditure into the local economy by new residents. These similarly attract moderate weight, given the scale of the development.

² APP/J2210/W/18/3204617

31. For these reasons, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a consequence, the Framework states that planning permission should be granted and the proposal benefits from the presumption in favour of sustainable development. This finding is consistent with LP Policy SP1, which similarly relates to the presumption in favour of sustainable development set out in the Framework.

Conditions

32. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
33. A condition is necessary to secure matters of appearance, landscaping, layout and scale, with the standard conditions specifying when the reserved matters applications must be submitted and when the development must be commenced by. Conditions requiring adherence to indicative drawings, or those drawings which relate to matters for which approval is not sought, would not be necessary, since they would be subject to consideration under later submissions. Neither have I found it necessary to specify all the matters which should be included in the reserved matters applications, given that their acceptability will be a matter for the Council at a later date.
34. To preserve living conditions and highway safety, a Construction Environmental and Traffic Management Plan is necessary. As the details of the access are shown to be indicative only and given the need to address the identified drainage issue in this location, final details of the junction are necessary for approval. To ensure appropriate mitigation for reptiles, updated details of the receptor site are required and appropriate actions in respect of other protected species as proposed should be secured. These matters need to be pre-commencement conditions to ensure they are considered at an early stage and adhered to from the outset.
35. In addition, for ecological reasons an external lighting scheme is necessary and in accordance with the advice of the County Council's ecologist, details of the final District Level Licence should be provided to show that it was adhered to.
36. As site layout is not established and as those matters would form an integral part of the development, it is not necessary to condition delivery of footways and carriageways, nor other highway items. Similarly, details of vehicle and cycle parking arrangements would form part of the subsequent reserved matters. In the absence of details as to why they are necessary to make the proposal acceptable, a condition requiring gateway signs for the village would not pass the test of necessity or reasonableness. In the absence of details of why it would be necessary for planning purposes, and as this is primarily a building regulations matter, a condition relating to electric vehicle charging points is not imposed.

Conclusion

37. The appeal scheme would not adhere to the development plan taken as a whole but material considerations, namely the Framework, indicate that the appeal should be determined other than in accordance with it. As such, for the

reasons given and having regard to all other matters raised, the appeal is allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Applications for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters in respect of landscaping shall include details of a soft landscaped buffer to be provided between the new houses and the boundary of Victory Wood as well as measures to enhance biodiversity within the site.
- 5) No development shall take place until a Construction Environmental and Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with those approved details. Those details shall include, but not be limited to, the following:
 - Routing of construction and delivery vehicles to and from the site;
 - Parking and turning areas for construction and delivery vehicles and site personnel;
 - Timing of deliveries, site operations and working;
 - Details of site access points for construction;
 - Dust control measures;
 - Arrangements for construction waste, storage and removal, and;
 - Any temporary traffic management and signage.
- 6) Prior to the commencement of development, final details of the vehicular access shown on drawing 21-065/001 Rev.D (contained in the Transport Statement by Charles and Associates dated September 2022) shall be submitted to, and approved in writing by the local planning authority. Those details shall include matters of drainage and visibility splays. The development shall be carried out in accordance with the approved details prior to the first occupation of any part of the development and the visibility splays shall be maintained free of obstruction over 0.6 metres above the carriageway level at all times.
- 7) Prior to the commencement of development, an updated reptile mitigation strategy shall be submitted to and approved in writing by the local planning authority. This shall provide an alternative location for the

receptor site or provide justification as to why the receptor site detailed in the Ecological Impact Assessment by David Archer Associates, dated September 2022, would be appropriate. The development shall be carried out only in accordance with those approved details.

- 8) Throughout the construction process, including site clearance, mitigation for badgers, bats, breeding birds and reptiles, as detailed in the Ecological Impact Assessment by David Archer Associates dated September 2022, shall be implemented. If works do not commence within 1 year of planning permission being granted, the mitigation shall be reviewed and updated and submitted to the local planning authority for approval in writing. In that event, those approved mitigation measures shall be adhered to throughout the construction process.
- 9) Within three months of the commencement of development, a copy of the full District Level Licence shall be submitted to, and approved in writing by the local planning authority.
- 10) Prior to the installation of any external lighting, details of a sensitive lighting scheme shall be submitted to and approved in writing by the local planning authority. Those details shall demonstrate how the effects on bats have been considered, and the development shall be carried out only in accordance with the approved details.
- 11) No new dwelling shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Those details shall include methods for the disposal of surface water on the site by means of a sustainable drainage system, a timetable for its implementation, and details of its future management and maintenance.

End of Schedule