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# Appeal Decision

Site visit made on 1 July 2024

**by A Wright BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 August 2024**

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**Appeal Ref: APP/U2235/W/23/3328773**

**Tanglewood, Forstal Lane, Loose, Coxheath, Kent ME15 0QE**

- 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 Andy Wilford for Esquire Developments Ltd against the decision of Maidstone Borough Council.
  - The application Ref is 22/505923/OUT.
  - The development proposed is described as "The erection of 9no. custom and self-build dwellings, with all matters reserved except for access. Provision of vehicular access from Forstal Lane and pedestrian access from Forstal Lane including associated infrastructure and earthworks."
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Outline planning permission is sought, with all matters reserved except access. The application includes illustrative plans, including a masterplan and a sketch site layout plan. I have determined the appeal based on the proposed access in these plans, with the remaining proposed development layout for illustrative purposes only.
3. Since the Council determined the planning application, it has adopted the Local Plan Review 2024 (LPR). The policies in the LPR largely supersede policies from the Maidstone Borough Local Plan 2017, including those outlined in the reason for refusal. I sought the parties' comments on the implications of the LPR for the proposal. The Council states that there have been two strategic level challenges to adoption, but there is no indication that these affect the adopted LPR policies relevant to this appeal. Therefore, I have determined the appeal based on the current adopted policies in the LPR, taking into account the comments received.
4. A draft National Planning Policy Framework was published in July 2024. As the proposed changes would not materially affect the main issue or other matters in this case, the parties were not invited to make further comments. As the draft document is currently subject to consultation, it carries very little weight, but I have had regard to the current National Planning Policy Framework 2023 (the Framework).

## Main Issue

5. The main issue in this appeal is the effect of the proposal on the character and appearance of the countryside and the Loose Valley Landscape of Local Value.

## Reasons

6. The appeal site lies in the countryside, immediately north of but outside the settlement boundary for Coxheath. Surrounded by well-established boundary hedging, it comprises a grassed field which drops down from west to east on one side of a valley. A large green space and adjacent residential development lie south of Forstal Lane. There is some development in other parts of the locality, but the narrow country road, sporadic nature of development north and east of it and roadside hedges give this part of the lane a verdant, rural character. Public rights of way run south through the green space and along the opposite side of the valley.
7. Policy LPRSS1 of the LPR sets out the spatial strategy for the Borough. Whilst Coxheath is a Rural Service Centre, the appeal site is in a location where protection will be given to the rural character of the borough avoiding coalescence between settlements, including Maidstone and surrounding villages. Policy LPRSP9 states that development in the countryside will not be permitted unless it accords with other plan policies and will not result in significant harm to the area's rural character and appearance.
8. The site is within the extensive Loose Valley Landscape of Local Value (LLV) where LPR Policy LPRSP9 seeks to conserve and enhance the distinctive landscape character. Policy LP2 of the Loose Neighbourhood Plan requires development proposals in the LLV to have particular regard to the scenic quality and distinctive character of the area, and to mitigate any impacts. The LPR indicates that the LLV is characterised by the Loose stream, mill ponds and springs with steep wooded valley sides, mature native woodland and traditional mill buildings and cottages.
9. The recent new housing development at Coxheath is recognised in the characteristics of some landscape character areas within the Maidstone Landscape Character Assessment 2012 (LCA). However, the appeal site primarily lies within the broad Farleigh Greensand Fruit Belt and detailed Loose Greensand Orchards and Pasture landscape character areas. The LCA seeks to conserve and reinforce this area including in relation to hedgerow boundaries and the characteristic narrow and enclosed lanes.
10. The parties disagree on the sensitivity of the appeal site landscape and its contribution to the LLV, particularly given its location on the southern edge of the LLV and the landscape character areas, close to development at Coxheath. However, as it is undeveloped land bounded by hedgerows and narrow lanes on one side of a steep valley, the site positively contributes towards the character of the LLV and displays characteristics typical of the landscape character area.
11. The proposal is for nine dwellings and an access road on currently undeveloped land. The houses would be partly opposite recent residential development, with a lower density than this and some schemes approved on other sites in the borough. Forstal Lane forms a distinct boundary between the built-up area of Coxheath and the countryside, and the LPR Policies Map does not include any housing allocations immediately north of the lane. As such, the proposed introduction of a sizeable residential development on this side of the lane would encroach into the countryside, causing significant harm to the rural character of the area.

12. The replacement of the existing field access with a road junction onto Forstal Lane, the proposed long access road and number of dwellings would result in significant urbanisation of the countryside. The illustrative plans indicate large turning heads, a substantial number of large outbuildings and hardstanding areas for car parking which, together with domestic paraphernalia in the gardens, would exacerbate the urbanising effect of the proposed development.
13. The opposite side of the valley is largely undeveloped land, although not in the LLV, the green space provides a continuation of this to the south. I note that there would be new planting within and north of the site and that much of the boundary landscaping would be retained. However, the loss of the undeveloped valley side to development and part of the boundary hedgerow for the vehicular access would significantly erode the landscape character of the LLV.
14. Matters of layout, scale and design are not under consideration at this stage. Nevertheless, I acknowledge that the plot passports set out some design principles for the plots, including location of build area, maximum building heights, plot boundaries and extents, materials palette, and landscaping details.
15. Despite existing and proposed planting, due to the topography, the development would be clearly visible from the public right of way and green space to the south, albeit that this would be against a backdrop of trees. Whilst it would be lower than existing development in views from the north, it would clearly impinge on views of the rural landscape across the valley from the public right of way extending from Gordon Court. Further, the development would be visible to users of this part of Forstal Lane, including through the proposed vehicular access. Thus, the proposed scheme would be evident in short and longer range views, eroding the countryside and landscape character.
16. Consequently, I conclude that the proposal would significantly harm the character and appearance of the countryside and the Loose Valley LLV. This would be contrary to Policies LPRSS1, LPRSP9, LPRSP15 and LPRQD4. Together, these seek to protect the rural character of the countryside, conserve landscape character, and require proposals to respect the topography and location, amongst other things. It would also conflict with Policies LP2 and LP3 of the Loose Neighbourhood Plan 2018-2031 where they require proposals to respect the character of the locality, including the scenic quality of the LLV.

## **Other Matters**

### *Contribution to self-build housing supply*

17. Councils are required to establish and publicise a register of those who are seeking to acquire serviced plots of land in their area for their own self-building and custom housebuilding<sup>1</sup>. Authorities must have regard to their register when carrying out their planning functions and there is no exemption from this duty<sup>2</sup>. Councils have a legal duty to grant sufficient development permissions to meet the demand for self-build and custom housebuilding in their areas arising in each base period<sup>3</sup>.

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<sup>1</sup> Self-build and Custom Housebuilding Act 2015

<sup>2</sup> Paragraph: 029 Reference ID: 57-029-20210208 of the Planning Practice Guidance

<sup>3</sup> Section 10 of the Housing and Planning Act 2016.

18. The Council accepts that there is an unmet demand for custom and self-build dwellings in its area, and that there is strong Government support for such housing. The appellant considers that this shortfall amounts to at least 447 plots to meet demand from the register for base periods 1 to 5 by 30 October 2023 and that this figure will increase to meet demand arising from subsequent base periods. Secondary data sources indicate that the demand for such plots could be significantly greater than the numbers on the Council's register, with an estimate that upto 2,859 people may be interested in building their own home in the Borough in the foreseeable future.
19. The proposal would provide nine custom and self-build homes secured through a signed and dated Section 106 agreement<sup>4</sup>. This would help to meet the Council's large unmet demand for such homes on a site with access to facilities and public transport at the rural service centre of Coxheath and linked by road to towns with a greater range of facilities.
20. The appellant states that there is a lack of available, achievable, and deliverable sites for self-build housing located on previously developed land or within settlement boundaries and that the LPR does not allocate specific sites for this purpose. It has been put to me therefore that the only alternative locations that can be relied upon to meet the demands from the register are greenfield sites located in the countryside.
21. However, Policy LPRHOU9 of the LPR supports self and custom build development in suitable and sustainable locations which conform to plan policies and meet specified criteria. Further, Policy LPRSP10(A) seeks a range of house types and tenures (including plots for custom and self-build) in new housing development proposals. This also requires consideration to be given to serviced custom and self-build plots as part of the housing mix of major development in line with Policy LPRHOU9. The Inspector for the LPR considered that the policy approach provided a positive framework for custom and self-build housing proposals. Further, the Inspector recognised that the countryside should not be the starting point for locating self-build development. As such, the supporting text to Policy LPRHOU9 was modified to state that it should primarily be located as per the settlement hierarchy, and therefore outside the countryside unless site specific circumstances indicate otherwise.
22. The Council's current unmet demand for self-build dwellings is significant and Inspectors for appeals elsewhere have given substantial, considerable, and overriding weight to such unmet demand<sup>5</sup>. However, the proposed scheme would provide only a modest number of custom and self-build dwellings towards meeting this demand. Further, the Council's LPR sets out a positive approach towards the provision of such housing and the shortfall in self-build dwellings may dissipate as the recently adopted strategy takes effect. Therefore, in this instance, I give moderate weight to the provision of nine custom and self-build dwellings.
23. I note the Council's recent resolution to grant planning permission for health and social care facilities on a site south east of Coxheath<sup>6</sup>. In that case, the Council found no significant harm to the character and appearance of the area and gave some weight to the benefits of co-locating such facilities in allowing

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<sup>4</sup> Under Section 106 of the Town and Country Planning Act 1990.

<sup>5</sup> Including APP/W3520/W/23/3316136, APP/T0355/W/22/3309281 and APP/T0355/W/23/3314990

<sup>6</sup> Planning application ref: 23/505091/HYBRID

the scheme contrary to the LPR spatial strategy. Nevertheless, for the reasons set out, the current proposal would significantly harm the character and appearance of the area. In addition, the benefit of the proposal in helping to meet an unmet demand for custom and self-build homes would differ to the benefit of providing co-located health and social facilities. Therefore, the schemes are not comparable.

#### *Contribution to housing land supply*

24. The proposed development would provide nine additional dwellings, contributing towards Maidstone's housing supply. The Council's current housing land supply published in February 2024 stands at 5.7 years which exceeds the five years required by paragraph 11(d) of the Framework. This tempers the weight that I have attached to broad housing delivery, but it is still a limited benefit of the scheme.

#### *Other benefits*

25. The scheme would be brought forward by a SME developer, a sector encouraged by government policy. In addition, the proposed off-site highway works would be better than the current arrangements, potentially improving highway safety. Further, the proposed scheme would improve connectivity to an existing public right of way. I give some weight to these benefits.

#### *Heritage assets*

26. There are listed buildings in the vicinity, the nearest of which is the grade II listed The Old Cottage, Well Street, around 115m from the site. Its special interest and significance derive in part from it being a 16<sup>th</sup> century or earlier timber framed cottage. Given the distance of the proposed development in relation to this designated heritage asset, the proposal would preserve the setting of the listed building, and its significance would not be harmed. I note that the Council raised no objection in this regard either. Nevertheless, this lack of harm weighs neutrally and does not amount to a consideration in support of the appeal or alter my overall conclusion on the main issue.

#### *Other*

27. The Council did not find harm or development plan conflict in relation to several other matters, including flood risk and drainage, living conditions, highways and parking, trees, ecology, living conditions, agricultural land, minerals, heritage assets, land contamination and air quality. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
28. I note that there was no objection from Coxheath Parish Council, but this does not alter my overall conclusion on the main issue.
29. The appellant's general concerns about their engagement with the Council is a matter between those parties and it does not in this instance have any bearing on my determination of this appeal.

### **Planning Balance and Conclusion**

30. I have found significant harm to the character and appearance of the countryside and LLV. This is a planning harm to which I attach considerable weight. The provision of custom and self-build dwellings attracts moderate

weight and the contribution towards the Council's overall housing land supply attracts limited weight. I also accord some weight to the development by a SME developer, and improvements to public right of way connectivity and highway safety. The remaining matters only carry neutral weight. Accordingly, the other matters do not outweigh the harm I have found.

31. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

*A Wright*

INSPECTOR