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## Appeal Decision

Inquiry held on 14, 15, 16, 17 and 21 January 2025

Site visit made on 13 January 2025

**by D Wallis MRTPI, BSc (Hons), PGDip (Environmental Planning)**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> February 2025

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**Appeal Ref: APP/Z2260/W/24/3351846**

**Land off Foxborough Lane, Minster, CT12 4AH**

- 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 Gladman Developments Ltd against the decision of Thanet District Council.
  - The application reference is OL/TH/23/1404.
  - The development proposed is an outline planning application for the demolition of no. 97 Tothill Street and erection of up to 115 residential dwellings (including affordable housing), introduction of structural planting and landscaping, public open space, sustainable urban drainage system and associated works (all matters reserved except for access).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal is made in outline form with all matters reserved except for the matter of access. The planning application and the related appeal were informed by the appellant's drawing entitled Development Framework Plan reference CSA/5662/101 (DFP). The appellant states that this plan is illustrative and that any future reserved matters application would not be bound by its proposals. I have considered and determined the appeal on this basis.
3. A trilateral legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted with the appeal, with a final signed and endorsed copy dated 23 January 2025 (S106). I shall return to this later in my decision.
4. I conducted my principal site visit on 13 January 2025. Following discussions and requests, I conducted two supplementary visits on the mornings of 15 and 16 January 2025 to observe both the morning traffic conditions in the vicinity of Minster, and viewpoints from the Saxon Shore Way footpath.

### Main Issues

5. The main issues for the appeal are:
  - the effect of the development upon the character and appearance of the landscape;
  - the effect of the development upon the resource of best and most versatile agricultural land;

- whether or not suitable and safe pedestrian access would be provided, to avoid residual highway effects;
- the effects upon local social infrastructure; and
- whether or not an adverse effect on integrity would occur to the Thanet Coast and Sandwich Bay Special Protection Area and/ or the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest.

## Reasons

### *Landscape character*

6. The appeal site forms a parcel of land abutting the eastern edge of the village of Minster, which is formed by a mix of fencing, hedgerows and occasional mature trees. To the north is housing within Burgess Close, with a service station and the A299 corridor beyond. Immediately east is agricultural land to which the appeal site shares no identifiable boundary at present. Further to the east is Laundry Road, upon which is an industrial estate, agricultural buildings and a small number of dwellings. To the south of the appeal site is Foxborough Lane, which is lined with mature hedgerows, before becoming residential in character as the road enters Minster. The whole area, including the village of Minster, falls within the Wantsum North Slopes Landscape Character Area (WNS<sup>1</sup>).
7. The appeal proposals are for 115 dwellings with approximately 2 hectares of public open space, green space and drainage features. On the indicative DFP, the green and blue infrastructure would form a solid belt down the eastern side of the appeal site, providing a formal boundary to the open countryside beyond. The appellant has suggested on the DFP that a proportion of the dwellings could be 2.5 storeys, circa 10.5 metres in height. Adjacent land, shown edged blue on the DFP alongside Foxborough Lane, would deliver biodiversity net gain (BNG).
8. In alleging harm to landscape character, the Council submit that the appeal site and its surroundings are a valued landscape for the purposes of paragraph 187(a) of the National Planning Policy Framework (the Framework). Initially this conclusion appeared to have been drawn for the whole of the WNS, although the scope was verbally narrowed during the Inquiry to that of the 'visual envelope' the Council used to assess the impacts of the proposed development. In any event, the Council state this results in a heightened sensitivity for the landscape and thus the impacts upon it from development would be greater than anticipated by the appellant.
9. I note the WNS as a whole does not benefit from any statutory status and is not subject to any designations within the Thanet District Local Plan July 2020 (the LP). Policy SP26 of the LP, in seeking to conserve and enhance Thanet's landscape character and local distinctiveness, does not prohibit or seek to direct development away from the WNS. I have no evidence before me from any party as to the entire extent, quality or condition of the WNS. On this basis, I cannot conclude that the appeal site forms part of a wider scale valued landscape.
10. In looking at the Council's visual envelope, the Council call upon the Landscape Institute's Technical Guidance Note 02/21 for Assessing Landscape Value outside

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<sup>1</sup> Sometimes referred to as the Wantsum North Shores in evidence

National Designations, stating the appeal site and its surroundings have attributes taking them beyond being an ordinary landscape.

11. From my site visit, I appreciated the scenic views afforded from the higher land to the north of the appeal site, wherefrom there are sweeping vistas towards the distant marshes and the sea. In this way, the sloping terrain and views are strong visual cues of Thanet's former island character as well as Minster's historical and cultural context as a former coastal settlement. In equal merit, I observed the scenic qualities of the views from the marshes to the south of Minster, with the distinctive slopes of the WNS providing a backdrop to the village.
12. However, the area directly surrounding the appeal site is not tranquil or wild, with traffic persistently audible from the A299 and from local roads. The large industrial estate, together with the development along Laundry Road, detract from the area's attractiveness. Other than vast open nature of the landscape there is no other striking feature, habitat or vegetation contributing to its beauty. The Thanet District Landscape Character Assessment of 2017 identified a key feature of the WNS was the distinctive seasonal growth of asparagus, but the Council considered this of little landscape value. When viewed from the marshes to the south of Minster, the characteristic rising slope cannot be divorced from the ready presence of built development rising with it. To this extent, the landmark church spire in Minster is framed against an existing amount of built form within its wider panoramic setting.
13. Overall, I am not convinced that the area falling within the Council's visual envelope constitutes a valued landscape for the purposes of the Framework. However, that does not mean the landscape is benign or lacks intrinsic beauty.
14. The appeal development would push the current extent of Minster eastward onto open rural land, intruding into views and vistas from the north and the south. Whether or not such views are accessible by public footpath is a minor consideration; I was able to walk along Laundry Road and witness that the views are in the public domain. Those scenic views signify the area as having an island quality and provide a strong sense of place, which the appeal would negatively encroach into and erode.
15. Whilst the appeal development would not break the skyline in any view, the expansion of the village eastwards would visually obscure part of the characteristic sloping land and reduce the open field pattern. It would introduce a new landscaped field boundary on an arbitrary line, which both the main parties deem necessary to screen and soften the proposed dwellings. The Landscape Assessment of Kent 2004 identifies that formal blocks of localised screen planting should be avoided and in this respect the appeal proposal would be out of character with the landscape characteristics of the WNS. Whilst landscaping is a reserved matter and could therefore change, any reduction or removal of landscaping may result in a greater exposure of the development to the local area. Neither way forward represents a satisfactory relationship between the appeal site and the wider surroundings.
16. When viewed from the junction between Laundry Road and Foxborough Lane on the Viking Coastal Trail, the existing dwellings on the eastern edge of Minster are visually subtle, weathered, generally muted in scale, height and colour. The dwellings in Burgess Close are much more assertive in the area and demonstrate how a 2 and 2.5 storey development would look prominent in the landscape.

17. The appellant has indicated that a proportion of the proposed dwellings could be 2.5-storeys in height, but such height could be restricted by condition. Whilst I acknowledge that dwellings of this scale are visible in the area, this does not justify further dwellings of the same size and scale. The appeal development would be an unduly assertive intervention in the landscape, adjudged in the appellant's own Landscape and Visual Impact Assessment 2023 as likely to have a moderate adverse impact even after landscape mitigation had grown over 15 years. Limiting height to 2 storeys by condition would not significantly reduce the visual impact of the development in my view.
18. Upon leaving Minster, Foxborough Lane becomes an enclosed green corridor transitioning to a more open rural agricultural landscape as it moves towards Laundry Road and Bedlam Court Road. In order to facilitate access into the appeal site, the long hedgerow on the northern side of Foxborough Lane would be removed and then re-planted behind the proposed visibility splays. Whilst the compensatory planting would have some benefits, the engineered access would adversely alter the green corridor character of this part of the lane and harm the rural approach into Minster.
19. For these reasons, I do not consider that the proposed development has demonstrated a positive response to the character, key sensitivities, qualities and guidelines of the WNS. In my view, the appeal development would erode the spatial characteristics and the visual appearance of the open landscape. I therefore conclude that the proposal would cause harm to the character and appearance of the landscape, contrary to policies SP24, SP26 and QD02 of the LP, that together seek that landscape character and local distinctiveness should be conserved and enhanced.

*Best and most versatile agricultural land*

20. The appellant's agricultural land classification survey assessed that 80% of the appeal site constitutes best and most versatile agricultural land (BMV), with 58% being classified as Grade 2, 22% as Subgrade 3a and the remaining 20% either subgrade 3b or non-agricultural land.
21. Policy E16 of the LP states permission will not be granted for significant development that would result in the irreversible loss of BMV unless three specific criteria are met.
22. Taking the criteria in reverse order, the appellant openly admits to not providing any information regarding the extent of the existing agricultural holding or the viability of the business. Anecdotal evidence was briefly verbalised at the Inquiry regarding the potential size of the holding but nothing else was presented. I cannot conclude either way on whether the proposal would affect the viability of the existing holding when there is no evidence before me. I am compelled to take a precautionary approach and consider there may be an impact on the holding.
23. In respect of criterion 2, the appellant openly admits to not undertaking the sequential assessment approach advocated. The Inquiry was told this was because the LP states that approximately 91% of all land within Thanet is classified as BMV land and, as a result, the Council would have to seek housing development on BMV in order to achieve the housing targets by default.

24. I consider that whilst the LP does indicate that BMV would be encountered across the district, this is a generalisation and does not substitute for investigating site-specific circumstances to guide development. Policy E16 of the LP seeks to investigate those site specifics with a view to protecting BMV against unjustified loss. The appellant's own survey has indicated there may be pockets of non-BMV land around Minster. There is a clear and accepted failure to justify the loss of BMV by not undertaking the sequential search required of policy E16.
25. The appellant's case in respect of policy E16 is solely predicated on the benefits of the proposed development outweighing the harm caused via BMV loss. Whilst the Council conceded this would likely be the case, the three limbs of policy E16 have to be considered together as a whole.
26. The appellant has not submitted any evidence to substantiate the case under criteria 2 and 3 of policy E16 and accepts that there is a breach of the Development Plan on this ground. Paragraph 187(b) of the Framework requires consideration of the economic and other benefits of BMV, which the appellant has failed to do. I conclude that the proposed development would result in an adverse and unsubstantiated impact on the resource of BMV. This would be contrary to Policy E16 of the LP that seeks to prevent the irreversible loss of BMV.

#### *Pedestrian access*

27. The village of Minster is a historic settlement which has expanded north and west over time. The principal route through the village is formed by Tothill Street from the A299 in the north, to the High Street and Church Street in the south. An east to west route also exists with Monkton Road heading west and Foxborough Lane heading east towards the A256, providing alternative entry points to the village.
28. The appeal site would be located on the northern side of Foxborough Lane and would take its principal vehicle and pedestrian access from the same. A secondary access, primarily for pedestrians and cyclists and secondarily for emergency vehicles, would be to the northwest of the appeal site onto Tothill Street.
29. The main parties agree that Minster has a good range of shops and services for day-to-day living within an accessible distance from the appeal site. The main parties also agreed, via the Transport Assessment, that prospective residents would most likely walk onto Foxborough Lane and continue their journey south on Tothill Street to reach shops, services and community buildings. It was agreed that some parts of the existing footpath network on Tothill Street were narrow, substandard and not able to be used by persons in wheelchairs or pushing prams.
30. To accommodate the impacts of additional pedestrian movements arising from the appeal scheme, the appellant proposed a number of varying mitigation measures during the application and the appeal. Proposals for zebra crossings were rejected by Kent County Council in its role as the local highway authority (LHA) due to interference with the flow of vehicles on Tothill Street. Proposals to widen the sections of narrow footway were also rejected since this would reduce the available carriageway, slowing the flow of vehicles contrary to the purpose of Tothill Street as a local distributor road.
31. The final package of offsite highway improvements proposed by the appellant constituted the installation of tactile paving at various points across the network, with the principal intervention being a raised table at the Tothill Street /



Foxborough Lane junction. These measures would be secured via planning condition with the District Council, with a subsequent process under Section 278 of the Highways Act 1980 (as amended) with the LHA.

32. Whilst the LHA originally objected to all proposed crossings on the basis of adopted guidelines and standards, there was a ready concession at the Inquiry that the crossings in the vicinity of Hill House Drive, Monkton Road, Singleton Close, and at the Station Road / St Mildred's Road interchange were acceptable. I do not find any reasons to disagree with these conclusions. Objections from the LHA were however maintained for the crossings of Church Street, Norton Drive and the Tothill Street / Foxborough Lane junction, with subsequent concerns about onward traffic from that junction south along Tothill Street.

#### *Church Street*

33. A person walking south towards the train station would seek to cross Church Street outside Minster village hall, where there are already dropped kerbs in place on both sides of the carriageway. Church Street is wider at this point because of the turning into Station Road, but this is the current direct pedestrian route for southward journeys. Given the high kerbs on the southern side of Church Street, this direct route is currently attractive and available to those with mobility concerns.
34. I acknowledge LHA concerns that visibility is restricted at the crossing point because of the sweeping bend from the High Street to the west as well as by the bus stop to the east along Church Street. Nonetheless, this is an existing situation that, whilst not ideal, appears to have been the case in Minster for many years.
35. The LHA's position on the proposed tactile paving almost implied that the mitigation would make the situation worse, thus perhaps making a case for it to be omitted. However, whilst applying tactile paving would perhaps draw people to the crossings, in my view it would also serve as a visual cue to drivers that people are likely to cross at those points. In this particular instance, I do not find the use of tactile paving would represent a hazard to pedestrian safety.

#### *Norton Drive*

36. I observed that Norton Drive is a cul de sac with a wide junction adjoining the High Street. There are small areas of dropped kerb encouraging a route across the widest part of the junction, aligned to run alongside the give way lines painted on the road. There are no further dropped kerbs for a fair distance into Norton Drive and so there is not a readily available alternative for pedestrians. Yellow lines are applied to the corners of Norton Drive, and I am told that these lines were painted following a collision between a car and a pedestrian in 2019. Whilst I note only a small number of houses in Norton Drive, a pedestrian cannot see vehicles leaving Norton Drive from the current dropped kerb positions.
37. Directly opposite the junction is a convenience store and, during all my visits to the area, there was parking on the road immediately outside the shop. When travelling from north to south along the High Street, the entrance into Norton Drive is not immediately apparent and neither is the presence of oncoming traffic. I watched cars travelling southbound weave in and out of the parked cars to give way to northbound traffic, as well as cars departing the convenience store nudging out into the High Street for forward visibility. Although no vehicles used Norton Drive to gain extra road width to make passing easier during my visit, I consider there is

potential for such manoeuvres to occur. With pedestrians currently walking across the mouth of Norton Drive, there is a risk of an accident occurring at present.

38. I acknowledge this is a situation endured by the Minster residents already regardless of mobility. I also recognise that safety has been sought to be addressed through the use of yellow lines to prevent parking in the mouth of Norton Drive. I am however conscious that this is the junction on the road network surveyed by the appellant where there has been a reported accident.
39. The appeal proposal would give rise to an intensification of pedestrian movements on the network, and this would increase the probability of an accident. I would not agree that the use of tactile paving would be appropriate for pedestrian safety at this junction. The crossing at present is unsafe in my view and drawing greater attention to it, particularly for those with visual impairments who rely on tactile paving to signify safe crossing places, would be a hazard to pedestrian safety.

*Tothill Street / Foxborough Lane junction*

40. The appeal development would be accessed by a small stretch of new footway constructed on the northern side of Foxborough Lane, across the frontage of 'The Outlook', connecting to the existing footpath. That existing footpath leads westward to Tothill Street where, whether intended or not, there is an existing crossing point over Tothill Street.
41. On my site visit, I found this existing crossing point to be wholly inadequate and unsafe. Visibility was not sufficient, causing me to step into the carriageway to look northwards to see oncoming cars. Due to on-street parking outside No.36 Tothill Street, I found myself waiting for northbound cars to pull out to pass the parked cars to give me reassurance that no south bound cars would be coming. I noted that whatever visibility was afforded to the north from the current crossing was over the boundary planters of No.35 Tothill Street and, as confirmed in the Inquiry, the LHA has no agreement in place for any visibility splay to be maintained over that party's land.
42. The appellant has recognised the safety problems and sought to address them through an engineered intervention. The first step proposes to move the existing crossing point nearly 5 metres further south and apply tactile paving to either side of the road. The appellant states that the resulting northbound visibility would still be insufficient for both a 30mph and 20mph speed road. Subsequently, together with signage formally lowering speeds, the appellant proposes constructing a raised table as a traffic calming measure to reduce vehicle speeds to below 20mph. The appellant acknowledges that persons may still find themselves on the kerb edge in order to see clearly.
43. The LHA maintained its objection and emphasized vulnerable users would need to dangerously project their mobility aids or pushchairs into the carriageway of Tothill Street before being able to see clearly. Furthermore, the LHA highlighted that, having crossed Tothill Street at the intended and demarcated crossing point, the onward journey for those vulnerable users would be further impeded by the narrow footway immediately south of No.36A Tothill Street. In response, the appellant orally stated that vulnerable users could cross diagonally anywhere across the proposed raised table to the entrance of Rose Gardens, thus bypassing the stretch of narrow footway.

44. If that is the consequence of the raised table, I find such a proposal would cause additional complexity and hazard to the junction whereby pedestrians would be crossing anywhere within it. The situation would not be helped by the existing footway on the southern side of Foxborough Lane abruptly terminating outside No.33 Tothill Street without any dropped kerb, making a diagonal crossing from there awkward or unattainable for certain users. Whilst visibility may be improved looking north, pedestrians would effectively be sharing the carriageway with vehicles turning out of Foxborough Lane in order to cross Tothill Street. The unpredictability of the proposed crossing would certainly give it the perception of being unsafe, if not actually being unsafe for all users.
45. The LHA believe that the raised table would need a steep vertical deflection in order to be effective in reducing the speed of traffic, which may result in secondary effects in terms of noise and vibration. In the absence of evidence, I will not comment on those secondary effects further, but I note the extent of vertical deflection is unknown and has not been proved suitable for larger vehicles. No Road Safety Audit has been undertaken for the proposed crossing, which heightens my concern about the safety of this proposed arrangement.
46. The appellant describes the proposed crossing as betterment. In my view the proposed intervention would make the crossing point less bad, but not sufficiently good. The fact that there would be increased numbers of pedestrians attempting to cross at the junction as a result of the appeal increases the likelihood of accident significantly. There would remain an unacceptable risk to pedestrian safety that would result in adverse residual highway effects.

*The onward journey*

47. Assuming someone did make the crossing of the Tothill Street / Foxborough Lane junction, the onward journey would likely see them continue south towards Minster village centre. The public footpath on Tothill Street narrows tightly just beyond Rose Gardens and remains narrow for a fair distance. There is no footway on the eastern side of Tothill Street in this area, with a stone wall directly abutting the carriageway edge. I observed southbound vehicles allowing an extra margin of carriageway when passing the wall to avoid collision, which in turn pushed northbound vehicles closer to the narrow path.
48. Although the route is straight allowing forward visibility, pedestrians travelling south would either have to wait for a pedestrian heading north to vacate the path before proceeding or would have to step into the road in order to pass freely (and vice versa). The appellant argues that vehicular flows allow ample time for pedestrians to pass in the carriageway. For elderly or less mobile pedestrians, walking or stepping into the road may be an unsafe and unwelcome action. Even an able-bodied user may feel uncomfortable and perceive the route as unsafe when on the footpath with vehicles, particularly larger ones, passing so close to the narrow path. Increasing pedestrian throughput along this route only adversely increases the risk to safety and probability of an accident occurring.
49. In oral evidence only, the appellant advocated that people may walk into Rose Gardens and then use an alley between houses to bypass the narrow stretch on Tothill Street. Alternatively, the appellant suggests that prospective residents could exit via the proposed secondary access to the northwest of the appeal site, cross



over Tothill Street and proceed to walk through the housing estate on the west side of Minster for their journey south.

50. I do not have qualitative evidence before me regarding the alley out of Rose Gardens, other than the Council stating it is unlit and contains two right angle bends. From my site visit, the route did not appear too convenient for free-flowing two-way pedestrian traffic. Regards to the longer diversion, this would run contrary to desire lines of pedestrians, increasing journey times and resulting in contrived ways to reach facilities on Tothill Street such as the salvation army church, vets and doctor's surgery.
51. The appellant points out that a proportion of pedestrian trips from a residential development permitted to the West of Tothill Street<sup>2</sup> would likely use Tothill Street to access services and facilities. However, I note a condition on that planning permission required, prior to occupation, the provision of a footpath through to the existing housing onto Greenhill Gardens. This route would, without diversion, allow residents to naturally travel south towards the centre of Minster without needing to engage with, or cross over, Tothill Street.
52. Whilst no one could guarantee that all users of that development would use the Greenhill Garden route, the provision of a readily accessible viable alternative would be built into that development. That is different to the situation at the appeal site where alternative routes are either lengthy diversions or on routes that have not been fully appraised as to their effectiveness, where the majority of pedestrian traffic would have to cross, and likely attempt to navigate down, Tothill Street.
53. My attention has been drawn to an allocation in the LP for 35 dwellings on land to the south of Foxborough Lane, with no road frontage onto Tothill Street, thus requiring both vehicular and pedestrian access onto Foxborough Lane. At the Inquiry, the Council stood by the deliverability of the allocation, defending its inclusion in the most recent Annual Monitoring Statement, despite the evidence strongly suggesting that the LHA would raise the very same pedestrian safety concerns about the Tothill Street / Foxborough Lane crossing.
54. Whilst no scheme is before me on the 35-dwelling allocation, and as such it is inappropriate for me to prejudge what may or may not be acceptable, I am conscious that the LHA had been consistent in its objections since 2018 when the appeal site was first submitted for the Council's Strategic Housing Land Availability Assessment. I do not foresee how this could be overcome, and the presence of the allocation does not justify or resolve the safety concerns I have identified.

### *Conclusion*

55. Whilst no planning policies before me decree that every part of every pedestrian route should be suitable for all users, the level of risk posed to pedestrian safety in this instance is too great to permit. I therefore find that the proposed crossing of Tothill Street from Foxborough Lane would be unsafe for pedestrians as would the crossing of Norton Drive. The onward journey along the desire lines would also be unsafe and unattractive for all users. This would be contrary to the aims and objectives of the Development Plan.

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<sup>2</sup> OL/TH/18/1488 et al

56. For the reasons given above, I find the appeal development would not provide suitable and safe pedestrian access for future residents, which would lead to residual highway impacts. The proposal would therefore be contrary to policies SP43, SP44 and TP02 of the LP, that together seek to ensure inclusive and accessible developments.

#### *Social infrastructure*

57. The proposed development would give rise to increased demand upon local services including educational, health and community facilities. Accordingly, a range of financial contributions have been requested by Kent County Council and the Council to mitigate the impacts.
58. A trilateral S106 agreement dated 23 January 2025 has been provided with all relevant signatories appended. There are no disputes as to the level of financial contributions sought, so all appear in full within the S106 to the satisfaction of the relevant authorities.
59. I have no reason to doubt or disagree with the main parties in this regard and consider all the obligations to be justified having regard to the Community Infrastructure Levy Regulations 2010 (as amended). The appeal proposal would therefore mitigate its effects on local social infrastructure, in accordance with policies SP23 and SP41 of the LP, that seek to secure the future of social and community infrastructure.

#### *Effects on designated sites*

60. The appeal site falls within the zone of influence for the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest. Whilst not directly affecting those designated sites of the National Site Network, the appeal would give rise to increased recreational pressure through additional residents. A potential adverse effect on the integrity (AEoI) of the SPA could therefore occur that, if unmitigated, would cause conflict with the Conservation of Habitats and Species Regulations 2017 (as amended).
61. The Council has provided its own Appropriate Assessment in consultation with Natural England. The Council have an adopted strategy known as the Bird Wise project that seeks to manage and mitigate the effects of recreational pressure. This requires a financial contribution, calculated on a per dwelling basis, to be made towards educational and warning signage, outreach programmes and wardens.
62. The submitted S106 agreement secures the relevant financial contribution and the appropriate trigger points for its payment. The Council consider that this is sufficient and, having received a positive response from Natural England during the course of the application, believe the appeal could proceed without causing an AEoI.
63. Because I am dismissing on other grounds, I have not had to undergo an appropriate assessment in this instance. Nonetheless, on the evidence before me, it would appear that an AEoI could be ruled out. On this basis the proposal would comply with policy SP29 of the LP that affords high protection to the SPA and other sites designated for ecological value.

## Other Matters

64. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that my determination must be in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
65. It is common ground between the main parties that the Council cannot demonstrate a five-year housing land supply, thus paragraph 11(d) of the Framework is engaged. Specifically, the appellant argues the Council can only demonstrate 3.07 years, and highlights the Council only scored 67% on the Housing Delivery Test results, representative of an acute housing shortfall in the district that has persisted over a number of years.
66. I note the history of housing delivery in the district shows a failure to meet housing needs, even considering that the LP makes provision for a stepped housing trajectory over its plan period. The Council pointed to the LP being 5 years old in July 2025, at which time the Council would be assessing housing needs against the standard methodology. I note however that, in the Council's own best case, there is only a 3.18-year supply at present and this would only rise to a 4.43-year supply under the standard method. There would still be a shortfall of 778 dwellings. Work on a reviewed LP has stalled with the current earliest predicted date for a new Local Plan to come into effect being July 2028. The prospect of plan-led development is therefore some time off, and the housing need is now.
67. In light of the identified housing dilemma, the provision of 79 market dwellings under the appeal scheme should be given significant weight. In addition, the provision of 35 affordable houses via the appeal should also be given significant weight. Whilst the appeal would lead to breach of Policy SP24 of the LP in terms of locating housing outside of a settlement boundary, I consider there to be limited harm arising from the breach given that the current plan-led system for managing housing growth is not delivering for the people of Thanet.
68. Economic benefits would initially be transient during construction, with permanent economic benefits emerging in terms of footfall to local shops and services once residents occupy the appeal site. This would no doubt support a prosperous rural economy for the benefit of the community of Minster.
69. The main parties agree that, in terms of vehicular movements to and from the site, there would not be any adverse impacts on the transport network nor an unacceptable impact on highway safety. There were concerns regarding capacity at the Spitfire Way roundabout to the north of Minster, but the submitted S106 agreement makes financial contributions towards improvement of this junction to the satisfaction of the LHA, which would benefit all highway users.
70. My attention is also drawn to the benefits of public open space provision, BNG delivery and providing infrastructure to deal with drainage matters. However, the weight to be given to these is tempered by the degree of uncertainty about the future planning of the appeal site, given the DFP is indicative only. A safe and proven method for disposing of surface water has not yet been established, attracting an objection from Southern Water, which may give rise to design

changes to the proposed drainage solution on the DFP. The appellant stated orally that the land set aside for BNG, shown blue in the DFP, may actually be removed with BNG being accommodated wholly or partially within the appeal site itself, which raises questions about effectiveness of the BNG strategy. The amount of open space provision is not secured by the S106 or by condition, so may change in scale and aspiration, and may also be contrived to include BNG, potentially being deleterious to the objectives of both.

71. Set against this, I note one of the policies to which paragraph 11(d)(ii) of the Framework tells me to have particular regard is paragraph 115, wherein I am told it should be ensured that safe and suitable access to the site can be achieved for all users. I have found earlier in this decision that the development would not do this, contrary to the Development Plan. The appellant did advance an argument that, if people of limited mobility or pedestrians with prams and pushchairs felt that their journey would be unsafe or inconvenient, they could always travel by car to their destination. This does not however serve as a remedy for an unsafe pedestrian network. It would also generate additional vehicle trips and emissions, weighing against the development. It also represents a non-inclusive approach requiring people of certain abilities to rely solely on the car, going against the principles of paragraph 115 of the Framework.
72. Whilst there is a greater national emphasis for housing delivery and economic growth, I consider this should not be at the expense of inclusivity, accessibility or safety. The appeal proposal, whilst geographically close to shops and services, would not provide safe and suitable pedestrian access to them for all users, leading to an increased risk to life or a dependence upon the private car. This fails the social and environmental limbs of sustainability set in the Framework.
73. Furthermore, the proposal conflicts with paragraph 187 of the Framework by failing to recognise the beauty of the countryside and failing to assess the economic (and other) benefits of the BMV. The conflict with policies E16 and SP26 is to be given full weight in this instance.
74. For these reasons, the harms of the proposed development would significantly and demonstrably outweigh the benefits. Whilst I have found that the proposal would be compliant with policies in respect of two of the main issues identified, these would not overcome the harm arising in respect of the other three main issues. I do not consider that planning conditions could be used effectively to reduce the harms identified. I do not consider that there are sufficient or significant reasons to make a decision otherwise than in accordance with the Development Plan.

## Conclusion

75. For the reasons set out above, the appeal should be dismissed.

*D Wallis*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Martin Carter                      of Counsel instructed by Gladman Developments Limited

He called:

Christien Lee                      Planning Director Gladman Developments Limited

Clive Self                          Managing Director CSA Environmental

Clive Burbidge                    Director of Icen Projects Limited

Matthew Travis                    Company Director of Enzygo

### FOR THE LOCAL PLANNING AUTHORITY:

Alex Greaves                      of Counsel instructed by Thanet District Council.

He called:

Vic Hester                          Director of VLH Associates

Jon Etchells                        Director Jon Etchells Consulting Limited

Matthew Bembridge              Principal Transport and Development Planner of Kent  
County Council

### INTERESTED PARTIES:

Councillor Tim Ingleton on behalf of Minster Parish Council

Mr John Bates

Mr Dan Hockey



## **ADDITIONAL DOCUMENTS**

- ID1 Errata Sheet for Mr Burbridge's Proof of Evidence
- ID2 Thanet District Council Annual Monitoring Report 2024
- ID3 Opening Statement for the Appellant
- ID4 Opening Statement for the Council
- ID5 Extract of planning permission OL/TH/18/1488
- ID6 The Landscape Assessment of Kent, October 2004
- ID7 Promotional Material for the Viking Coastal Trail
- ID8 Addendum to the Statement of Common Ground
- ID9 Addendum to the Proof of Mr Christien Lee
- ID10 Schedule of Conditions
- ID11 Closing Statement for the Council
- ID12 Closing Statement for the Appellant