



Appeal Decision

Hearing held on 26 February 2025

Site visit made on 26 February 2025

by **G Pannell BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th April 2025

Appeal Ref: APP/U2235/W/24/3354595

Land at Vicarage Road, Yalding, Kent, ME18 6DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr G Dunn against the decision of Maidstone Borough Council.
 - The application Ref is 24/501439/FULL.
 - The development proposed is Erection of 3 No. two-storey detached dwellings with four bedrooms, attached garages, bund and widening of existing vehicular access on to Vicarage Road with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal the appellant has submitted amended plans to address concerns regarding the impact of the development on the existing trees and these plans remove a proposed detached outbuilding. These drawings and the accompanying technical reports have been subject to consultation during the appeal process, I have therefore considered them as part of this appeal. I consider that the changes would not materially alter the nature of the application and my consideration of them would not prejudice the interests of interested parties.¹
3. The description of development in the heading above has been taken from the planning application form. However, noting the submission of the amended plans I removed reference to the detached outbuilding.
4. The appellant has submitted a duly executed legal agreement which I have taken into account. It provides for obligations in relation to affordable housing and I have contemplated this further later in my decision.

Main Issues

5. During the appeal the parties have agreed matters pertaining to the third and fifth reason for refusal, following the submission of an Arboricultural Impact Assessment and Ecological Survey.
6. Therefore, the main issues in this appeal are:

¹ Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

- the effect of the development on the setting of identified heritage assets and the Yalding Conservation Area;
- the impact of the development on the character and appearance of the area;
- the effect of the development on highway safety; and
- whether the proposal would make adequate provision for affordable housing.

Background

Spatial Strategy

7. The appeal site is located outside of the settlement boundary for Yalding, which are defined on the proposals map of the Maidstone Borough Council Local Plan Review 2021-2038 (LPR). Yalding is defined within LPRSP7 as a larger village where the overall development considered acceptable would be less than in Rural Service Centres, as they are comparatively less sustainable locations for meeting the development needs of the borough.
8. LPRSS1 sets out that Yalding is one of four larger villages within the district in the third tier of the settlement hierarchy, and will be a location for limited housing development consistent with the scale and role of the village, with the Maidstone Urban Area being the main focus for development in the borough.
9. As the appeal site is outside of the defined settlement boundary for Yalding, the proposal does not find support from LPRSP7d.
10. Policy LPRSP9 of the LPR sets out that areas outside of the settlement boundaries defined on the Policies Map are countryside where development will only be permitted where it gains support from other policies within the LPR. Furthermore, with regard to this appeal, development should not result in significant harm to the rural character and appearance of the area and retain the separation of individual settlements.
11. The parties agreed that Policy LPRSP9 does not introduce a blanket restriction on development outside of settlement boundaries as it does allow for development in the countryside, subject to other criteria being met.
12. Therefore, whilst policy LPRSP9 is intended to ensure the protection of the countryside and to ensure housing is located in accessible areas which reduce the need to travel and where a real travel choice is provided, it does not prevent the development of land outside of settlement boundaries and therefore the proposal does not conflict with the Council's overarching spatial strategy in LPRSS1.

Reasons

Heritage Assets

13. During the appeal the parties have agreed, following the submission of an Appeal Heritage Statement, that the assets Grade II Listed Wardes Moat, The Stables, Cherry Tree Cottage and The Lodge, which is curtilage listed by virtue of its association with Wardes Moat, should be considered having regard to the impact of the appeal scheme on their setting and significance. Furthermore, alterations to

the existing access, and in particular the introduction of a raised table, are also considered to impact on the setting of Yalding Conservation Area.

14. Cherry Tree Cottage is a cottage to the north side of Vicarage Road and its significance is derived from its simple domestic style and aesthetic with Gothic revival pointed arches. It follows the Cottage Ornee (picturesque cottage) style, which was prevalent in the early nineteenth century as part of the Romantic movement. From the front of the cottage views are possible over Vicarage Road towards the open and undeveloped appeal site, with views filtered by the existing landscaping along the boundary. There are also glimpsed views of the cottage from the access.
15. Cherry Tree Cottage sits at the end of a row of modern development and appears isolated from the grouping of Wardes Moat, The Stables and The Lodge. As such whilst the undeveloped site provides a pleasant outlook from Cherry Tree Cottage, I consider its setting is now very much that of its immediate landscaped lawns and gardens. Therefore, even if developed the appeal site would not have an adverse impact upon its setting, and it would remain viewed within the context of modern development.
16. Both the appeal site and the listed buildings referred to above are excluded from the Conservation Area boundary which is centred around the centre of the village along the High Street and then extends beyond the built up area to include The Lees and Twyford Bridge. The Conservation Area boundary starts just before the junction with Vicarage Road and its significance is drawn from the seventeenth and eighteenth century buildings which loosely line the High Street in a picturesque grouping.
17. The Council confirmed that the impact on the setting of the Conservation Area would be from the proposed raised table at the entrance to the site and is designed to slow traffic speeds entering Yalding. However, noting the distance from the appeal site to the Conservation Area, which the appellant states is approximately 300m, and the intervening development between the appeal site and Conservation Area, which includes a newly constructed housing estate, I do not consider that the proposed raised table, whilst introducing a more urban form of development, would impact on the setting of the Conservation Area, where its significance will still be appreciated from within its historic core.
18. Wardes Moat, The Stables and The Lodge form a group, with The Lodge being created when Wardes Moat, a former rectory, was aggrandised and enlarged. The significance of The Lodge and The Stables is derived from its historic setting and physical and historical relationship with Wardes Moat. The site is considered to positively contribute to the setting and thereby significance of these assets through it providing a landscape which contributes to these assets' appreciation.
19. It is understood that during the Victorian period social reforms resulted in the creation of new parishes and the mass development of churches and vicarages and an overhaul of existing buildings to ensure they were fit for purpose and provided a suitable social status worthy of the Vicar, who was considered to have the social status of a gentleman. The Parsonages Act of 1838 allowed bishops to require the building or repair of parsonages in livings worth more than £100 per year, which created an increase in construction. This would also include the associated estate of stables and staff accommodation. Wardes Moat provides an

example of this, with The Lodge intended as a house for staff and as such was closely linked to the house and its grounds.

20. The Appeal Heritage Statement (AHS) confirms that the house was designed within glebe lands with a distinction of its immediate setting characterised by a more formal arrangement of gardens, orchards and wider pasture lands and copse. The parties agreed at the hearing that the appeal site comprises part of those original glebe lands, as evidenced by the historic maps.
21. The moat immediately adjoining Wardes Moat creates a strong physical separation of the building with its immediate and wider landscape. However, the appreciation of Wardes Moat and The Stables is partly gained from the wider site and the approach to those buildings along the access road and the tree lined avenue, between the open undeveloped sparsely wooded appeal site and the denser wooded area beyond.
22. I have had regard to the evidence provided in relation to the principal access to the property as shown on the 1841 tithe map where you approached the principal elevation of Wardes Moat, rather than the current access which was created in the late nineteenth century when The Lodge was built, and whether this lessens the importance of the route along the existing access and setting therefore of Wardes Moat and The Stables.
23. The importance of the grouping of Wardes Moat, The Stables and The Lodge is only appreciated from the existing access and given it was constructed when The Lodge was built, it is linked to the wider establishment of the estate as set out above, when it was aggrandised and enlarged. The setting of these buildings has, as a result, evolved over time and therefore, whilst it wasn't designed as the principle access, it has importance in the wider appreciation of these heritage assets.
24. Although the appeal site has been severed from Wardes Moat and there has been a degree of physical and visual separation between the appeal site and other areas of the former site, the access in particular links the three sites of The Lodge, The Stables and Wardes Moat and therefore the introduction of development onto the appeal site would interrupt and erode the relationship between those three heritage assets and would lead to a further fragmentation of the former estate.
25. The introduction of development into the site would have an urbanising effect on the character of the area and lead to an incremental erosion on the setting of The Lodge, Wardes Moat and The Stables, by introducing development into an area which is relatively undeveloped and provides a link to the historic development of the original estate.
26. The proposal also includes works to widen the existing access and to introduce a passing bay. These works would alter the character of the existing access from its current rural and low key unobtrusive appearance. The introduction of formal surfacing, the removal of hedging and vegetation at the entrance and the introduction of a raised table would introduce an urban form of development which would fundamentally alter the appearance of the access. The widening outside The Lodge in particular would further impact on its setting and increase the perception of visual separation from the land to which it would have been previously associated with.

27. Section 66 (1) of the LBCA Act requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.
28. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
29. Nevertheless, the harm would be less than substantial and in accordance with paragraph 214 of the Framework, that harm should be weighed against any public benefits of the proposal. The site would give rise to some economic benefits during the construction phase and I consider that there would be modest social benefits arising from the delivery of housing and the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area.
30. However, these modest benefits are not considered to outweigh the identified harm to which I must attach considerable importance and weight. The proposal would, therefore, fail to preserve or enhance the setting, and thereby the significance of, the designated heritage assets. It would not accord with the policies of the Framework which seek to conserve and enhance the historic environment.
31. I conclude that the development proposed would fail to preserve or enhance the setting of The Lodge, Wardes Moat and The Stables. This would be contrary to both policy LPRSP14 (B) and LPRENV1 of the LPR, which set out that characteristics, distinctiveness, diversity and quality of heritage assets will be conserved and where possible, enhance the significance of the heritage asset and its setting. It would also conflict with references within policy LPRSP15 to the creation of high quality design within areas of historic character and heritage value.

Character and appearance

32. The statement of common ground confirms that the site, with the exception of the existing bund, is not within a Habitat of Principle Importance and that the loss of trees, as set out within the AIA would be acceptable. Therefore, I have considered the impact on the character and appearance of the area on this basis.
33. The appeal site is an undeveloped area of land, containing a number of large protected trees, including some which line the access track serving the appeal site and Wardes Moat. Parkland style railing is still visible along the boundary of the site, but is in varying states of repair.
34. On the opposite side of Vicarage Road is linear development of relatively modern housing in a mix of styles, with the appeal site representing a green edge to the village, marking a transition from the built up part of the village to the countryside beyond.
35. The proposal would introduce a new access from the existing track with the dwellings positioned fronting the access road in a semi circle. The boundaries of the site would be supplemented by additional planting, however glimpsed views of the development would be possible through the hedgerow, especially during winter months.

36. The Maidstone Landscape Character Assessment (LCA) identifies the site as falling within the Yalding Farmlands LCA. This sets out that the key characteristics of the landscape are the enclosed pastures, frequent orchards and notably the historic settlement of Yalding. Yalding is identified as having a characteristic mixture of traditional style buildings, demonstrating a strong local distinctiveness. The LCA sets out within its summary of actions that there is a need to conserve the undeveloped character of the landscape. The Maidstone Landscape Capacity Study (LCS) identifies that Yalding Farmlands has a high overall landscape sensitivity and is sensitive to change.
37. The LCA was produced in 2012 and the LCS in 2015 and the appellant considers that as evidence it is now dated, and therefore should be given limited weight. However, I consider that it still provides useful descriptors of the landscape sensitivities within locations such as the appeal site and therefore I have taken it into account in my consideration of whether the proposal complies with the relevant development plan policies.
38. The introduction of development in this location would lead to an intrusion into the countryside, failing to recognise its intrinsic rural character. I consider that the introduction of 3 large detached dwellings, as a result of their overall scale, bulk and mass, would alter the character and appearance of this rural site and introduce an urban form of the development.
39. The introduction of development, which would face into the site, rather than presenting a frontage to Vicarage Road, would fail to assimilate development in a manner which reflects and respects the character of the area, which would be both out of character and harmful to the overall appearance of this part of Vicarage Road. For these reasons, the proposed development would introduce a discordant built form to the locality that would fail to protect or enhance the character of the countryside.
40. In conclusion, the proposed development would have a significantly harmful effect on the character and appearance of the area. Both in conflict with policy LPRSP9 which requires development to not result in significant harm to the rural character and appearance of the area and LPRSP14 (A) which seeks to protect positive landscape character and avoid significant adverse impacts as a result of development.
41. The proposal would also fail to accord with policies LPRSP15 and LPRQD4 which together, as part of principles of good design, requires development to respond positively to and where possible enhance the character of the area and local distinctiveness. In particular it seeks to ensure that the scale, bulk and mass of development reflects and respects the character of the area.

Highways

42. Vicarage Road is a class C road that is rural in nature and of varying width with a sporadic street lighting regime. From Vicarage Road the B2010 can be accessed which allows onward connection to nearby villages and the urban area, including southern Maidstone. The road is subject to a 30mph limit within the vicinity of the site.
43. The proposed development would be served from the existing access onto Vicarage Road, which currently serves the residents of Wardes Moat and The

Stables (also known as The Coach House). Wardes Moat has been subdivided into flats and therefore the access currently serves six properties and this would increase to nine. As such, despite the overall size of the proposed development, the use of the existing access would be intensified.

44. The Highway Authority (Kent County Council) have set out that the existing visibility from the access is unacceptable, with suggested splays of 17m being less than half the required distance of 43m in both directions. As the access can not be improved to meet the required highways standards as set out in Manual for Streets the appellant has proposed a raised table feature at the entrance which would slow traffic approaching the village to mitigate any risks arising from the lack of visibility for those exiting the junction.
45. A similar feature was proposed to be delivered as part of a larger residential scheme², The Glebe, which has recently been constructed and is now fully occupied, however the raised table and wider traffic calming scheme has not been implemented. The County Council have confirmed that this is because once detailed highway design works were undertaken it became clear that the approved access strategy was undeliverable as the developer has been unable to find a way to light the traffic calming features, which would be a requirement for safety.
46. The appellant has not provided any evidence to suggest that if the proposed mitigation works were to be approved that they would be able to light the feature appropriately. Noting the previously approved traffic calming scheme has not been able to be delivered this raises reasonable doubts that this similar scheme could achieve approval from Kent County Council.
47. Paragraph 116 of the Framework advises that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety and the guidance within Manual for Streets 2 (MFS2) advises that unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem. The appellant has provided evidence that there have been no recent collisions resulting in personal injury to pedestrians. It has been put to me that the lack of recent accident data is sufficient to demonstrate that a reduction in the required visibility splays, coupled with the small scale of the scheme should be sufficient to enable the proposal to be accepted, without the needs for the proposed raised table.
48. The Highway Authority has recommended that the application be refused and the Council's concerns are borne out in third party representations. Based on the evidence before me and from what I saw on my site visit, I also have concerns about the highway safety implications of a reduction in the required visibility splays. The lack of evidence to quantify actual driven speeds on Vicarage Road adds to my concern and as a result I do not consider it would be appropriate to lower the standards set out within MFS2.
49. As a result of the proposed development the use of the access onto Vicarage Road would be intensified and the lack of appropriate visibility splays increases the potential for conflict with vehicles exiting and entering the site.
50. The appellant has not carried out a Road Safety Audit (RSA) as part of its proposal, albeit it is not clear from the discussions at the hearing whether even

² 16/508660/FULL

with this evidence before them the County Council would have come to a different view on whether the proposal would be acceptable and therefore I have not given any weight in my consideration to the lack of the RSA.

51. Therefore, taking a precautionary approach, it has not been demonstrated within the evidence before me that the proposed access arrangements would not result in an adverse effect on highway safety, conflicting with policy LPRSP15 which requires development to safely accommodate vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.

Affordable Housing

52. The appellant has provided a duly executed legal agreement under section 106 of the Town and Country Planning Act 1990, which includes an obligation which would come into effect if planning permission were to be granted. The agreement secures the provision of a contribution towards the provision of off-site affordable housing.
53. I have considered the obligation in light of the Framework, Planning Practice Guidance and the Community Infrastructure Levy Regulations (the CIL Regulations). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs.
54. Policy LPRSP10(b) of the LPR sets out that on sites with an area of 0.5 hectares or more the council will require the delivery of affordable housing, with greenfield development in high value zones required to provide 40% affordable housing on site. In exceptional circumstances, and where proven to be necessary, off site provision will be sought with financial contributions being the least preferred option. Further detail on the implementation of the policy is provided within the Affordable and Local Needs Housing Supplementary Planning Document (SPD).
55. The appellant does not dispute the need for the scheme to accord with policy LPRSP10(b) and the Council accept that in the particular circumstances of the development, its overall size and type of dwelling to be provided, that an off site contribution would be acceptable.
56. The Council's Housing and Community Services Team have provided a figure of £780,000 based on the equation set out in the Council's SPD and this takes into account the number of units, the open market value of each unit and the registered providers offer for purchasing a unit.
57. At the hearing the appellant confirmed that they did not dispute the Council's findings based on the SPD but it would not be viable for the scheme to provide a contribution at that level. However I have not been provided, as part of the appellants written evidence submitted with its appeal statement, with any viability evidence upon which to consider this suggestion.
58. Furthermore, the appellant has not provided any breakdown as to how the figure of £250,000 which has been set out in the planning obligation has been derived nor

do I have any certainty that this money would be sufficient to enable the delivery of any off site affordable housing. However, I accept that even at a lower figure the contribution would provide a benefit to the scheme, to which I would attribute modest weight in any planning balance.

59. I have also had regard to the appellant's view that the site area could be amended to reduce its size to under 0.5 hectares, which would mean that no affordable housing contribution could be sought or secured. However, that is not the scheme before me and any future proposals on the site would be a matter for the Council in the first instance.
60. The proposed development fails to secure a policy compliant affordable housing contribution and is therefore contrary to policy LPRS10(B).

Other Matters

61. I have had regard to the previous appeal decision on this site³ which was dismissed in 2016. Noting the age of this decision and the recently adopted local plan I consider that its findings have a narrow bearing on the current appeal. Furthermore, with regard to its consideration of heritage assets, the Inspector notes that they had limited evidence before them in respect to the relationship between Wardes Moat and the appeal site. As I have been provided with detailed evidence on heritage matters it is unsurprising that I have come to a different view as to the relationship between Wardes Moat and the appeal site, noting that in both decisions we have considered that there would be less than substantial harm to the significance of a designated heritage asset.
62. The appellant during the hearing made reference to other development within the vicinity of the village that has been approved, however I have been given only limited information on these and as such they have not had any bearing on the outcome of my decision.
63. The appellant has also submitted two appeal decisions for a site at Neverend Farm, Ulcombe. These are for holiday lodges⁴ and traveller pitches⁵ and the findings in these appeals are not directly relevant to the appeal before me.

Planning Balance

64. The proposal would conflict with the development plan for the reasons previously outlined. However, the proposal would provide housing which would contribute to the Council's housing supply, whilst noting that they presently have a 5 year supply of housing.
65. The site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing settlement and as such lies within a sustainable location. There is no evidence that local infrastructure would be unable to meet the needs of the development. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.

³ APP/U2235/W/15/3136916

⁴ APP/U2235/W/23/3323307 Use of land for the stationing of holiday log cabins (13 twin-unit caravans) and associated bases, roads, decking, veranda, lighting and drainage details, plus use of existing vehicular access on to Pye Corner.

⁵ APP/U2235/C/19/3243809, APP/U2235/W/19/3241823 8 No pitch Gypsy & Traveller site with associated operational development.

66. In addition, the affordable housing contribution, whilst not policy compliant, would result in social benefits. Therefore, noting the moderate scale of the development proposed, I have attributed moderate weight to the delivery of housing in this instance.
67. However, the identified adverse impacts of the development, the conflict with the development plan and the adverse impacts to the character and appearance of the area, the shortfall in the affordable housing contribution and the impact on highway safety, to which collectively I have afforded considerable weight would significantly and demonstrably outweigh the benefits outlined above.
68. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

69. For the reasons given above the appeal should be dismissed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Graham Dunn
Jennifer Bonner
Paul Nicholls (Planning Director, Graham Simpkin Planning)
Shantanu Subramaniam (Principal Heritage Consultant, Fuller Long)
Aled Roderick (Director, PT Planners)

FOR THE LOCAL PLANNING AUTHORITY:

Kate Altieri, Senior Planning Officer (MA Town and Country Planning)
Janice Gooch, Principal Conservation Officer (FRSA MA MSc CHE IHBC)
Tom Harris, Senior Transport and Development Planner (BA Hons in Geography, HNC in Civil Engineering and BTEC in Transport Planning and Traffic Management)

INTERESTED PARTIES:

Mr Mcloughlin
Mr M Johnson
Mrs G Johnson