Planning Inspectorate

Appeal Decision

Site visit made on 24 March 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/U2235/W/24/3350221
Land Adjacent To Hayle Place, Cripple Street, Maidstone ME15 6DW

- 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 M Wooding & Ms H McHale against the decision of Maidstone Borough Council.
- The application Ref is 23/505511/FULL.
- The development proposed is for Nine Dwellings Utilising Existing Access plus Landscaping and Provision of Open Space.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 March 2024, the Council adopted the Maidstone Borough Council Local Plan Review (LPR), which supersedes the Maidstone Borough Local Plan 2017 and now forms part of the statutory development plan. Policies SS1, SP17, SP18, SP20, ID1, DM1, DM3, DM4, and DM30, as referred to on the decision notice, are therefore no longer relevant. Policies SP14, LPRSS1; LPRSP9, LPRSP14(B), LPRSP10(B), LPRSP13, LPRSP15, LPRSP14(A), LPRENV1 and LPRQD4 of the LPR are, however, relevant and the appellant has had an opportunity to comment on these.

3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and is a material consideration in planning decisions. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by taking this approach.

Main Issues

4. The main issues are:

   - whether the site is a suitable location for housing having regard to development plan policy and accessibility to services and facilities;
   - whether the proposed development would preserve or enhance the setting of the nearby listed building and the character or appearance of the Loose Valley Conservation Area (the CA);
   - the effect of the proposed development on the character and appearance of the area;

- the effect of the proposed development on trees;
- the effect of the proposed development on ecology; and
- whether the proposed development would make adequate provision for affordable housing.

Reasons

Suitable location

5. The appeal site is outside, but adjacent to, the Maidstone Urban Area as defined in the LPR. Policy LPRSS1 of the LPR sets out the spatial strategy and states that the Maidstone Urban Area will be focus for development in the borough and in other locations, protection will be given to the rural character of the borough avoiding coalescence between settlements. In addition, Policy LPRSP15 requires proposals to maintain and maximise opportunities for permeability and linkages to the surrounding area and local services.

6. The site is close to existing residential development that forms the urban area of Maidstone, including the adjacent site that has permission[1] for residential development. Although a footpath runs adjacent to the boundary of the site, leading to Postley Road, this is outside of the ownership of the appellants and there is no substantive evidence before me detailing whether it comprises a public right of way. In any event, the proposal does not include any direct connection to the urban area, including the footpath, limiting permeability with the existing and future development in the area. Consequently, future occupants would be required to access everyday facilities and services, including those at Boughton Parade, using the existing access via Cripple Street.

7. Cripple Street includes a section comprising a narrow lane enclosed by walls and narrow verges. There is a lack of dedicated footways and cycle paths, with a sharp bend limiting visibility for all road users. The footpath close to the access to Hayle Place could be used by future occupants, but is unlit and does not provide a direct route to the nearest facilities and services. Accordingly, future occupants would be discouraged from walking and cycling to access everyday facilities and services in the area.

8. The location of the site in relation to the existing development forming the urban area of Maidstone would ensure that the proposal would not lead to coalescence between settlements. Nonetheless, the limited permeability with the urban area and connectivity with the facilities and services would lead the proposal into conflict with Policy LPRSP15 of the LPR.

9. I conclude that the site is not a suitable location for housing having regard to development plan policy and accessibility to services and facilities. The proposal therefore conflicts with Policies LPRSS1 and LPRSP15 of the LPR, as set out above.

Heritage assets

10. Hayle Place is a Grade II listed building located on the opposite side of the shared access drive from Cripple Street and Teasaucer Hill. Section 66 (1) of the Planning

[1] Application references MA/13/2038 and 19/503702

(Listed Building and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings and their setting. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.

11. Hayle Place is a three-storey, mid-eighteenth century building with later additions, including a two-storey 'L-shaped' wing to the rear. While the evidence before me in respect of Hayle Place is limited, the appellant has not disputed the Council's assertion that the site appears to have been part of a large estate forming Hayle Place accessed by two drives from Postley Road and Cripple Street/Teasaucer Hill. The presence of a lodge building at the Postley Road access and a high wall enclosing a walled garden indicates the size and status of the Hayle Place estate. The significance of Hayle Place is derived partly from its architectural and historic interest.

12. The site is also located within the Loose Valley Conservation Area (CA). As required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special regard to preserving or enhancing the character or appearance of a conservation area.

13. The appellant has not disputed the Council's Conservation Officer's description of the CA, the significance of which primarily relates to the industrial heritage of the Loose Valley. This includes the paper mill at Hayle Mill and the development of large houses and estates in the area. Despite the overgrown condition of the land, the largely open and undeveloped nature of the site, which formed part of the former Hayle Place estate makes a positive contribution to the significance of the CA.

14. While the main part of the site is set away from the listed building, it is accessed from the shared drive to Hayle Place from Cripple Street. In addition, the site is close to the route of the former access drive from Postley Road and abuts the high wall forming the walled garden. The appellant's Heritage Statement notes that little change has occurred over the later part of the nineteenth and early twentieth centuries. Large scale development has taken place in the area, which has encroached towards Hayle Place. The site has previously been used as a sports ground and whilst this is no longer the case, the largely open and verdant character and position of the site relative to the main building, its access drives and associated walled garden site means that it makes a positive contribution to the setting of the listed building.

15. The proposed dwellings would be positioned away from the listed building at Hayle Place towards the edge of the former sports ground. The development would have a loose arrangement interspersed with the retained trees and additional landscape planting. The separation of the built form from Hayle Place and proposed landscaping would limit the intervisibility between the listed building and the development. However, the development would erode the open space between Hayle Place, the existing and former access drives and the walled garden. The scale of the development proposed, including the more intensive use of the site, and the further subdivision of the open land, would harm the significance of Hayle Place and the significance of the Loose Valley CA.

16. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The harm to the significance of the designated heritage assets would be less than substantial and must therefore be weighed against the public benefits of the scheme, in accordance with Paragraph 215 of the Framework.

17. The proposal would provide nine dwellings making a positive contribution to housing supply with associated social and economic benefits during the period of construction and once the dwellings are occupied. The development would include energy and water efficiency measures and would include additional landscape planting. In addition, an area of open space is included, albeit the majority of this space is outside of the appeal site and there is no mechanism before me to ensure that it would be retained and maintained for this purpose.

18. The Framework explains 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 is no dispute that the Council can demonstrate a five year supply of deliverable housing sites and is delivering deliver its housing requirement for the purposes of the Housing Delivery Test. Taking the stated benefits together, collectively there would be limited benefits associated with the appeal scheme. Consequently, the public benefits would not outweigh the harm identified to the significance of the listed building and the CA.

19. I conclude that the proposal fails to preserve or enhance the setting of the nearby listed building and the character or appearance of the Loose Valley Conservation Area. The development therefore conflicts with Policies LPRSP14(B), LPRSP15 and LPRENV1 of the LPR, which collectively seek to ensure that the characteristics, distinctiveness, diversity, and quality of heritage assets will be conserved and, where possible, enhanced; respond positively to the historic character of the area; and ensure that new development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and its setting.

Character and appearance

20. The site is largely undeveloped and includes mature trees close to the entrance to the main part of the site and to the boundaries. Areas of overgrown vegetation occupy the site, particularly close to the existing entrance from the access drive. A former cricket pitch and pavilion occupied part of the site, but there is limited evidence of the remains of the structure and the former cricket pitch and pavilion has since blended into the landscape. The land rises up from Hayle Place towards the main part of the site, which is on an elevated position above the existing drive.

21. The site is located within the Hayle Estate Landscape Character Area, which is part of the wider Farleigh Greensand Fruit Belt Landscape Character Area. In addition, the site is within the Loose Valley Landscape of Local Value. The area is strongly influenced by development comprising the urban edge of Maidstone, although the rough pasture, scrub vegetation and undulating landscape forming the Loose Valley gives an open and verdant character to the area. Development in the area includes significant residential development forming the urban edge of Maidstone, including larger dwellings at Egret Close and Saxon Way, and a cluster of buildings around Hayle Place.

22. The proposal is for nine detached dwellings and associated garage buildings. The development would lead to a limited encroachment into the countryside, extending the built-up area of Maidstone. The proposal would have considerable depth, with dwellings being positioned to the rear of those facing towards the area of open space. Moreover, the large dwellings and associated buildings and paraphernalia would erode the open and verdant character of the site, where the scale and elevated position of the development would lead to a high visual impact within the landscape, including from the nearby nature reserve. The proposal would urbanise the site, including the proposed access from the drive serving Hayle Place.

23. The site is close to existing development at Egret Close, and is adjacent to a site with planning permission for residential development. While the proposal would be viewed within the context of the existing built-up area, the lack of permeability in connecting the proposal with existing development would physically and visually detach the dwellings from the urban area. Nonetheless, the dwellings would have a strong visual relationship with the existing development, including the approved development adjoining the site. Consequently, whilst the encroachment of development beyond the urban area of Maidstone would harm the site's intrinsic character and appearance and wider landscape, the harm would be limited given the urban context of the site at the edge of the built-up area.

24. The proposal includes a scheme of landscaping, which would assist in softening the visual effect of the development within the wider landscape. A sensitive scheme of hard and soft landscaping, which could be secured by a condition, would allow the development to blend with the existing landscape and diffuse the overall quantum of development.

25. The proposal includes a mix of house types that would be finished with palette of materials typically present in the locality, including red brick and white weatherboarding. A render finish is also proposed and, whilst this is uncommon in the area, it would complement the primarily brick and weatherboarding finish of the majority of the properties. Whilst large, the dwellings are well proportioned and finished with features such as projecting gables and dormer windows, that add visual interest, whilst breaking up the mass of the buildings. The appellant's consideration of the development's design approach is limited, however the architecture and material finish would relate well with the existing development in the locality, including the dwellings at Egret Close and Saxon Way.

26. I conclude that the proposal would not cause significant harm to the character and appearance of the area. The development therefore accords with Policies LPRSP9, LPRSP15 and LPRQD4 of the LPR, which collectively require development proposals to not result in significant harm to the rural character and appearance of the area, conserve and enhance the distinctive landscape character of the Loose Valley, create a high quality design, enhance local distinctiveness and ensure impacts on the appearance and character of the landscape would be appropriately mitigated.

Trees

27. The site and the area surrounding Hayle Place is covered by Tree Preservation Order No 23 of 1975 at Hayle Place. The trees at the site make a positive contribution to their surroundings and their loss would negatively impact on the character and appearance of the area.

28. Development at Plots 1 and 2 would be particularly close to protected trees, including those forming the site boundary. There is no substantive evidence before me, including a Tree Survey or Arboricultural Impact Assessment, regarding the potential impact of the proposal on the trees at the site. Moreover, in the absence of information which demonstrates that the development would not encroach upon the Root Protection Areas, I cannot be certain that the trees would not be adversely affected by the proposal or that sufficient measures can be put in place for their protection during construction.

29. I conclude that it has not been satisfactorily demonstrated that the proposal would not have a harmful effect on the protected trees. The development therefore conflicts with Policies LPRSP15 and LPRSP14(A), which collectively require proposals to protect positive landscape character, including trees with significant amenity value and sensitively incorporate natural features.

Ecology

30. The proposal is accompanied by a Preliminary Ecological Appraisal[2] (PEA). The PEA states that it is necessary to undertake further surveys to understand the impact of the proposal on reptiles and to check for the presence of Hazel dormice, having regard to their status as protected species under the Wildlife and Countryside Act 1981 and as European Protected Species under the Conservation of Habitats and Species Regulations 2017. In addition, a full botanical survey is recommended to assess the quality of the habitat.

31. The appellant advises that surveys carried out in respect of developments in the locality found no ecological constraints on development with negligible intrinsic value and no evidence of protected species. Nevertheless, there is no substantive evidence before me detailing the location of the other developments and whether the survey work carried out would give an accurate up-to-date overview of the area's ecology. In any event, the submitted PEA recommends that further survey work is necessary in respect of the development of the site.

32. The mandatory condition requiring biodiversity net gain of at least 10% will be imposed on permissions granted pursuant of a planning application made on or after 12 February 2024 or 2 April 2024 for small developments such as this. Given that the application was made before 12 February 2024, this mandatory requirement does not apply.

33. I conclude that it has not been satisfactorily demonstrated that the proposal would not have a harmful effect on ecology. The development therefore conflicts with Policies LPRSP15 and LPRSP14(A), which collectively require an Ecological Impact Assessment of development sites, and any additional land put forward for mitigation purposes to take full account of the biodiversity present, including the potential for the retention and provision of native plant species and protect and enhance any on-site biodiversity and geodiversity features.

Affordable housing

34. Policy LPRSP10(B) of the LPR states that major housing development sites or mixed-use development sites where 10 or more dwellings will be provided, or the site has an area of 0.5 hectares or more, the Council will require the delivery of

[2] Dated 20 January 2023, prepared by KB Ecology Ltd.

affordable housing. Policy LPRSP10(B) sets a target rate for affordable housing provision at 40%.

35. The Glossary within the LPR defines major development as, for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. While the developable area of the site would have an area of less than 0.5 hectares and the proposal is for less than 10 homes, the appeal site has a total area in excess of 0.5 hectares. Accordingly, the proposal is required to make provision for affordable housing. In the absence of any on-site affordable housing or a financial contribution towards the delivery of off-site affordable housing, the proposal conflicts with Policy LPRSP10(B).

36. The appellant states that the Council is accepting proposals with an affordable housing provision or contribution with net developable areas of less than 0.5 hectares. Nonetheless, there is no substantive evidence before me that demonstrates the implementation of this threshold, and I have not been directed to a specific policy that would allow for taking such an approach.

37. I conclude that the proposal would not make adequate provision for affordable housing. The development therefore conflicts with Policy LPRSP10(B), as set out above.

Other Matters

38. The proposal would safeguard the living conditions of the occupants of neighbouring properties and would provide suitable living conditions for future occupants of the development. In addition, safe and suitable access to the site can be achieved for all users. The site is located within Flood Zone 1, indicating a low probability of flooding and the proposal would provide appropriate foul and surface water drainage. Nonetheless, these considerations are neutral factors and therefore do not weigh in favour of the proposal.

Conclusion

39. The proposal conflicts with the development plan. The material considerations, including the aforementioned public benefits of the scheme, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR