
Appeal Decision

Site visit made on 20 May 2025

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2025

Appeal Ref: APP/X2220/W/24/3353906

Land adjoining Keppeldown, Canterbury Road, Lydden, Near Dover CT15 7EP

- 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 Matt Steddy against the decision of Dover District Council.
 - The application Ref is DOV/23/00272.
 - The development proposed is the erection of a detached chalet bungalow and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the council issued its decision on the planning application, a new Dover District Local Plan (the Local Plan) has been adopted and I have taken it into account in my decision. In refusing planning permission, the Council referred to draft policies SP1, SP4, PM1, NE1 and NE5. The Council have referred to the new adopted policies in their evidence and the appellant has had the opportunity to comment upon the adopted policies.
3. The Council has confirmed that the Core Strategy and the Saved Policies of the Local Plan 2002 are no longer in force.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the appeal proposal having regard to the Council's strategy for the location of development;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the ecology and biodiversity of the site and its surroundings; and,
 - the effect of the proposal on groundwater.

Reasons

Location

5. The appeal site is located outside the settlement boundary of Lydden and is considered as countryside for the purposes of planning policy. The land is not

allocated for residential development and falls to be considered as a windfall site under Local Plan Policy SP4. The supporting text to policy SP4 confirms that the Council has reviewed its settlement hierarchy and settlement boundaries as part of the evidence base for the Local Plan adopted in October 2024. It further identifies the hierarchy as the main town of Dover, along with the principal settlements of Deal and Sandwich, followed by Aylesham as a Rural Service Centre. The remaining rural settlements, including Lydden, are villages and hamlets.

6. Policy SP4 identifies that windfall development will be permitted within or adjoining settlement boundaries of various identified towns and villages, including Lydden. Outside settlement boundaries, dwellings will only be permitted in exceptional circumstances, the criteria for which include an essential need for a rural worker, securing the optimum viable use of a heritage asset, the re-use of redundant or disused buildings, the subdivision of an existing residential building, or a dwelling of exceptional design quality that would significantly enhance its immediate setting. The appeal scheme would not meet these criteria.
7. The supporting text also clarifies that where the proposal is located adjoining the settlement boundary, in most cases this will require development proposals to be immediately adjoining the boundary line. It further clarifies that schemes will also be acceptable where there is a very close connection between the proposal and the built form of the existing settlement.
8. The strategy for the location of housing is delivered in the context of ensuring windfall development is located in a range of accessible and sustainable locations whilst protecting their settings and surrounding countryside, ensuring settlements do not coalesce. Strategic Policy SP1 states that the Council will seek to ensure that all new built development contributes to the mitigation of, and adaptation to, climate change through, amongst other things, reducing the need to travel and maximising opportunities for sustainable transport.
9. Lydden is a largely linear settlement, with the settlement boundary extending along Canterbury Road and Stonehall Road. The appeal site is located around 5 minutes' walk to the southeast of the settlement boundary. There is a limited amount of built development close to the appeal site in the form of a dwelling and working farm buildings opposite, as well as a recently built dwelling which the Council confirms replaced a former dwelling adjacent to the appeal site. There is open countryside between the appeal site and the settlement boundary and as such there is not a close connection between the appeal site and the village within the settlement boundary.
10. There is a footway which links the appeal site to Lydden village centre. The road in this location is subject to a 50mph limit and there is no regular street lighting until the main built area of the village where the speed limit also slows to 30mph. During my site visit I walked the route into the village from the appeal site. Despite the footway, the walk was quite some distance alongside fast-moving traffic and no street lighting. Services located within the village include a public house which I found was a 25-minute walk, primary school (15-minute walk) and doctors' surgery (around 20 minutes). However, given the nature of the road and lack of street lighting, the pedestrian route into the village would not be attractive to all, particularly those walking children to school, and I do not consider that the appeal site is sufficiently close to the village services such that vehicle trips for these journeys would be unnecessary.

11. There is a bus stop around 7 minutes' walk from the appeal site with services to Dover and Canterbury. The presence of the bus service would provide an alternative means to the use of a private car to access local services, facilities and employment opportunities. The village services would also be accessible by a short cycle ride from the appeal site. Canterbury Road would potentially have fast moving traffic at the location of the appeal site given that the 30mph speed limit is not in force until the main built-up area of the village. As such, I consider this route would appeal to a reasonably limited number of potential cyclists given the nature of the road.
12. I note the appellant's view that as the land to the north-west of the site was previously included in a Council document exploring potentially suitable housing allocation sites, this should weigh in favour of the proposal's location. However, despite this, the site is not an allocated site in the recently adopted Local Plan.
13. I appreciate that in general terms, car-dependency for some may have reduced due to the use of online delivery services and working from home. However, this would not be the case for all.
14. Notwithstanding my findings above regarding the accessibility of the site by bus as an alternative means of transport to the private car, the location of the appeal scheme would conflict with the Council's strategy for the location of development. This is as set out in Policies SP4 and SP1 of the Local Plan. These policies seek to locate new windfall residential development within settlement boundaries, minimise the need to travel, and support the creation of new dwellings within the countryside in very limited circumstances.

Character and Appearance

15. The appeal site comprises a flat, undeveloped parcel of land covered in grass and scrub, with a line of trees to the rear where the land meets the railway embankment. Further to the south-east, between the railway line and Canterbury Road, the land is more densely wooded. There is open countryside between the adjacent dwelling and the outer reaches of Lydden village, and open countryside on the opposite side of Canterbury Road beyond the house and farm buildings. The overall character of the area is rural, punctuated by small towns and villages.
16. The appeal site is adjacent to a recently constructed single storey house which the Council indicates was given planning permission in 2021 (reference 21/01728). The appeal proposal would be similar in form, scale and detailed design to the adjacent dwelling. The adjacent dwelling has a garden running to the front, side and rear which is laid to lawn. I have little substantive evidence before me to suggest that the appeal site would be development within its garden land.
17. Whilst the appeal site is adjacent to and opposite existing dwellings, the proposed development would have the effect of further urbanising the surroundings, consolidating the built form in this location. Tended garden space and residential paraphernalia associated with a domestic garden would further diminish the openness of the undeveloped land and the contribution it makes to the rural character and appearance of the area. Whilst I appreciate that the presence of trees would offer some screening of the appeal site from longer views, this would not mitigate the harm I have identified to the rural character of the surrounding area.

18. In conclusion on this main issue therefore, notwithstanding the detailed design and materials, the appeal proposal would harm the rural character and appearance of the area due to its urbanising effect. This would conflict with the aims of Local Plan Policy PM1 insofar as it requires new development to respect and enhance character and local landscape context.

Biodiversity

19. No assessment of the appeal scheme on the ecology and biodiversity of the site and surroundings has been provided, including in relation to any effect upon protected species. I have no information before me therefore on the baseline ecological condition of the site, the effect of the appeal proposal on current biodiversity, and the level of any mitigation required to offset any harm. There is considerable uncertainty therefore as to whether the landscaped garden within the proposal would be able to offer adequate mitigation. Even if I were to infer that due to the condition of the existing site, minimal habitat enhancements would be required to achieve a 10% net gain in biodiversity required by Local Plan Policy NE1, there is no objective pre-development biodiversity baseline from which to make any accurate comparison.
20. Given that there is insufficient evidence before me to be able to ascertain the effect of the proposal on biodiversity, and the potential mitigation required, I do not consider that the use of a condition would be appropriate in the absence of an understanding of the potential biodiversity effects of the proposal.
21. I conclude therefore that there is insufficient information before me to provide any certainty over how ecology and biodiversity of the site and surroundings may be affected by the proposal, including to protected species. The appeal proposal conflicts with Local Plan Policy NE1 insofar as it requires proposals to demonstrate that a 10% net gain in biodiversity on site can be achieved.

Groundwater

22. Policy NE5 of the Local Plan states that within Groundwater Source Protection Zones, development will only be permitted if it is demonstrated that there is no risk of contamination to groundwater sources given the reliance on groundwater for the water supply to this district. No substantive evidence was submitted with the appeal to demonstrate that any assessment of the contamination risk has been undertaken, or how it could effectively be mitigated.
23. I note the view of the appellant that planning conditions could be used to secure appropriate drainage to preserve the underlying groundwater. However, given the degree of uncertainty as to the magnitude of risk to groundwater, I do not consider the matter can reasonably be dealt with by planning condition.
24. It has therefore not been demonstrated that the proposal would not result in unacceptable contamination to the underlying chalk aquifer. Without these matters being resolved or having sufficient information to show they are capable of being resolved, the development conflicts with Local Plan Policy NE5 insofar as it requires proposals within Groundwater Source Protection Zones to demonstrate that there is no risk of contamination to groundwater sources. This policy is delivered with the aim of protecting the underlying chalk aquifer upon which the district is heavily reliant for water supply.

Other Matters

25. On the opposite side of Canterbury Road lies the Grade II listed building known as Little Watersend. The significance of the building is derived from its rural setting and late-Georgian domestic vernacular in terms of its use of brick, its elevational composition and window pattern. It is principally experienced in views from Canterbury Road.
26. I have had regard to the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) with respect to the desirability of preserving the setting of Little Watersend. There would be some intervisibility between the appeal site and the listed building. The location of the appeal site on the opposite side of a fairly wide road is therefore somewhat removed from the building's immediate setting. As such, I conclude that the appeal proposal would not harm the significance of the designated heritage asset though development within its setting, such that its setting would be preserved. A lack of harm in this respect, however, does not alter my overall conclusions.

Planning Balance

27. The appeal proposal would provide a single additional dwelling and would align with the Framework in seeking to boost the supply of housing. Some socio-economic benefits would arise from the construction, as well as environmental benefits including the use of photovoltaic panels, electric car charging, heat recovery, sustainable materials and high levels of insulation. There would potentially be biodiversity enhancements, although no details were provided with the appeal.
28. My attention has also been drawn to matters that are not in dispute including the proposals effect upon highway safety, the living conditions of nearby residents and that the design that the detailed design and materials of the dwelling would be appropriate. The evidence does not lead me to disagree with these conclusions. The absence of harm in these respects is a neutral factor which does not weigh for or against the proposal.
29. Given the proposed development would comprise only a single additional dwelling, the benefits described above are very small scale and the conflict I have identified with the Council's strategy for the location of development, harm to the character and appearance of the countryside, biodiversity and groundwater outweighs these benefits. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan.

Conclusion

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

L Francis

INSPECTOR