



Appeal Decision

Site visit made on 10 June 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2025

Appeal Ref: APP/G2245/W/24/3351862

Land East of 3 Chart View, Kemsing, Kent TN15 6PP

- 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 S Patience of Simon Patience New Homes Ltd against the decision of Sevenoaks District Council.
 - The application Ref is 23/03692/FUL.
 - The development proposed is erection of 5no. residential dwellings and associated private amenity space, landscaping and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fifth and sixth reasons for refusal related to the lack of a legal agreement to secure a financial contribution to affordable housing and in relation to biodiversity. A completed section 106 agreement has now been provided. I return to this matter later.
3. The Council have confirmed that the submission of additional information relating to flooding, including a drainage strategy, has addressed their concerns on this issue, set out in their seventh reason for refusal. Subject to conditions, the Council withdraw their objection on this matter and I have no reason to disagree.
4. Since the time of the submission of the appeal, the government published a revised version of the National Planning Policy Framework (the 'Framework'). Both parties were given an opportunity to comment on the revisions insofar as they are relevant to the appeal and I have taken their comments into account.

Main Issues

5. In light of the above, the remaining main issues are:
 - i) the effect of the development on the character and appearance of the area including the Kent Downs National Landscape, the Kemsing Conservation Area and the setting of listed buildings;
 - ii) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and development plan policies;
 - iii) the effect of the development on openness;
 - iv) whether the development would provide appropriate facilities for waste collection; and

- v) whether the harms to the Green Belt, and any other harms, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Character and appearance

6. The site is roughly square in shape and accommodates a few mature trees and ruderal vegetation. It is bounded on its north and west sides by extensive residential development. To the east is a single dwelling at St Edith's Farm Cottage. This is accessed from Chart View, from which the proposed dwellings would also be accessed. The access track forms the southern edge of the site and beyond this is open pasture.
7. In the wider setting, Kemsing is a modestly sized village surrounded by the Green Belt. The steep hills of the North Downs frame the village to the north and the land falls gently towards the south. From the site, wide and long distance views to the countryside to the south are a key characteristic. Although the houses in Chart View and that at St Ediths Farm Cottage are visible from the site, trees assist in softening the view and add an attractive verdant aspect. The rear of the houses along High Street are prominently visible from the site. But due to their linear form and the looming presence of the North Downs behind, these are seen as a narrow intrusion into the countryside. There are also trees in some of the rear gardens here which assists in softening the view.
8. Overall this is an edge of settlement site which, although informed by the nearby housing, is more strongly influenced by the open, rural and verdant land which surrounds this part of the village.
9. The development would provide five large, detached dwellings set in spacious gardens to allow plenty of room for landscaping. Nonetheless, the provision these dwellings, plus their associated garages and hard surfaced vehicle manoeuvring areas, would result in a substantial loss of the open and verdant character of the site, which would detract from the character and appearance of the area.
10. In addition, the houses would have a larger footprint than most of the nearby dwellings, particularly the older properties along High Street. The houses at plots 1, 2 and 3 would also be larger in bulk than neighbouring houses, particularly when seen in the context of the houses in Chart View, which have shallow pitched roofs. Their incongruous scale would add to the harm to the appearance of the area.
11. Turning to the National Landscape (NL), the site is within the western end of the North Downs NL. Some of the key components of the NL are its dramatic landform and the views that affords, often across open countryside. Although the site is bounded by dwellings on three sides, it is visible in the wider landscape from public footpaths to the south and north.
12. The Kent Downs AONB Management Plan highlights that small scale cumulative development progressively diminishes the qualities and character of the AONB at a strategic scale. However it also recognises that a landscape led approach to development is key to conserving and enhancing the natural beauty of the AONB.

13. Compared to the large grazing land to the south, the appeal site is very small and is separated from that land by the access track to St Ediths Farm Cottage. Nonetheless, the intrusion of the development into the open countryside, with five large dwellings, would harm the scenic beauty of the NL. The loose knit layout of the site with plenty of space for landscaping would not sufficiently mitigate the harm, particularly when seen in long distance views which are key to the NL.
14. With regard to the Kemsing Conservation Area (KCA), the appeal site is outside, but adjacent to it. Some of the key features that give the KCA its significance are set out in the KCA Appraisal (2023) and include the coherent core of old buildings focussed on St Ediths Well, and a strong eastern boundary where the relationship of the historic border of the village and the surrounding countryside are visible. The significance of the KCA is also strongly informed by its setting including the countryside to the east and the North Downs which are prominent in many north facing views of the KCA.
15. Two north facing views are specifically mentioned in the Appraisal. These are from the south boundary of the appeal site and from the public footpath that runs south from High Street, past the east boundary of the site and further south downhill. The proposal would appear prominently in both these views and would most likely result in views of the historic buildings within the KCA being wholly lost.
16. The development would also most likely be visible from the elevated viewpoint on the North Downs to the north of the village, albeit at a greater distance. From here, views of the historic core would not be affected. However the development would result in the loss of a part of the open countryside around the eastern end of the KCA, which is highlighted in the Appraisal as making a strong contribution to the character and appearance of the KCA.
17. The development would not be readily visible from most positions within the KCA as views in between the dwellings on High Street through to the countryside beyond are negligible. Nonetheless, the development would be visible from the public footpath at a point between Lark View and Little Wybourne, which is within the KCA. In any case, views of the KCA from its surroundings are valuable.
18. Consequently, for these reasons, the development would harm the setting of the KCA. It is noted that the site has recently been removed from the KCA. Nonetheless, it still forms part of its setting and that setting strongly influences the significance of the KCA.
19. Some of the historic buildings that front the High Street are listed. Including Wybourne Cottages, Glen and Gwen Cottages, Yew Tree House and Foster House. All these buildings are Grade II listed.
20. Of all the listed buildings, Wybourne Cottages has the closest relationship to the site. This building has been converted into two dwellings, but it originates from the 15th Century and is mostly of historic interest. Its setting is informed by the openness behind it with views across the site towards the open countryside beyond. This makes a strong contribution to the building's significance as a historic dwelling in a rural village. Consequently, the loss of the openness of the appeal site and the interruption of views between the listed building and the countryside beyond, would harm its setting and therefore its significance.

21. Gwen and Glen Cottages are a pair of modest 18th century brick cottages. They also are mainly of historic interest and as they directly adjoin High Street have a distinctive presence in the street scene. They are separated from the appeal site by part of the rear garden of the adjacent house which wraps around their rear. Moreover there are a number of trees in that rear garden which allow for very limited intervisibility between the site and the listed building. Indeed, from my site visit only the top of the roof was visible from the site. Due to this lack of visibility and the neighbouring garden in between, the site makes little contribution to the setting of this listed building and the development would cause no harm to that setting or the significance of the listed building.
22. The other listed buildings are further away and are separated from the appeal site by larger gardens and more trees than the other listed buildings. The appeal site makes very little contribution to their setting and the development would cause no harm to their significance.
23. The harm to the setting of the KCA and Wybourne Cottages would be less than substantial, but still significant, and it is necessary to balance that harm against the public benefits of the scheme. These primarily comprise the provision of five houses at a time when the Council cannot demonstrate a sufficient supply, a contribution to affordable housing, as well as minor benefits to the local economy and biodiversity. These are important benefits. However they do not outweigh the great weight that the Framework advises should be given to the conservation of heritage assets.
24. Overall therefore, the development would harm the character and appearance of the area, the setting of the KCA, the setting of Wybourne Cottages and the NL. The proposal would therefore conflict with policy SP1 of the Core Strategy (2011) which seeks to ensure that all development should respond to the local character of the area in which it is situated, that account should be taken of conservation area appraisals and AONB Management Plans, and that the District's heritage assets and their settings, landscapes and outstanding views, will be protected. The development would also conflict with policies EN1, EN4, and EN5 of the Allocations and Development Management Plan (2015) which together reflect the aims of SP1.

Green Belt

25. Paragraph 154 of the Framework sets out that development in the Green Belt is inappropriate except for a number of exceptions; one of which is the limited infilling in villages.
26. The site is outside, but adjacent to, the settlement confines of Kemsing. However that fact is not definitive in whether a site can be said to be within a village for the purposes of this policy, and a more practical assessment should be undertaken.
27. From my site visit it was clear that, due to the intervisibility, the site has a close relationship with the houses along High Street to its north. The houses in Chart View and that at St Ediths Farm Cottage are also visible from the site. The dwellings in High Street and Chart View are perceived as part of the village being contiguous with the rest of the settlement. They are also within the designated settlement confines.

28. However, despite the visibility of St Edith's Farm Cottage, the lack of any other dwellings or substantial buildings in this direction and the openness that results, leads me to consider that the land here is beyond the village. For the same reason, the appeal site itself also feels that it is beyond the village. As such the development of the site would not represent limited infilling in a village and so would not meet this exception in paragraph 154.
29. The appellant has drawn my attention to an appeal¹ in Seal where permission was granted for an infill development. But from the drawing and decision provided, that site seems to be located wholly within a settlement with substantial development on three sides, and built form on four, which is not the case in the appeal before me.
30. Paragraph 155 of the Framework sets out a further exception. To meet this, the site would have to constitute grey belt. To do so, it must not contribute strongly to three of the five purposes of the Green Belt as set out in paragraph 143 of the Framework. The parties agree that the site does not contribute to these three purposes. Also, land would not be grey belt if the application of policies relating to areas or assets of particular importance provide a strong reason for refusing development. These policies include those relating to NLs and heritage assets.
31. As set out above the development would cause harm to the KCA and the NL and so the application of paragraphs 189 and 212 of the Framework, which seek to conserve the scenic beauty of NLs and conserve the significance of heritage assets, give a strong reason for refusing development. Consequently, the appeal site would not be grey belt land and so would not comply with paragraph 155 of the Framework.
32. As such, the development would not meet any of the exceptions set out in the Framework and hence it would be inappropriate development.

Openness

33. Paragraph 153 of the Framework identifies that harm to the Green Belt including harm to openness should be given substantial weight. In considering openness, there are spatial and visual aspects.
34. Spatially the development would represent built development on land that is currently undeveloped. In addition, due to the large scale of the houses and the associated garages, the spatial loss of openness would be significant.
35. Visually, as set out above, the houses would most likely be seen from a number of positions including from the public footpaths that run along the northern and eastern boundaries of the site, the footpath that continues on to the south, and from elevated positions further north. The development would also be visible from many neighbouring dwellings. From all these positions the houses would significantly reduce the visual openness of the site.
36. As such the development would significantly reduce the openness of the site in both spatial and visual aspects.

¹ Ref APP/G2245/W/21/3271885

Waste collection

37. The plans indicate how a large vehicle, annotated as a fire tender, could access the centre of the site and hence all five houses. There is no reason to consider the access would not also be sufficient for waste collection vehicles. The appellant states that waste could be collected from individual properties and there would be no need for a waste storage building towards the south-west corner of the site as had been previously proposed. Although I recognise the appellant's Transport Statement maintains that waste would be collected from a waste store building, no such building is shown on the plans. As such, it seems more likely that waste would be collected from individual properties, and as this has been shown to be feasible, I see no reason why further details of the collection arrangements could not be secured by condition should it be necessary. As such, in this respect, the scheme would comply with policy EN1 which requires development to provide adequate refuse facilities.

Other considerations

38. The Council advise that a scheme of this size would be required to provide a contribution towards affordable housing. This is calculated as being 10% of the residual land value plus site preparation and servicing costs. In this case it amounts to nearly £290,000. This figure has been secured in the completed planning obligation.
39. The completed obligation also includes commitments to pay £10,000 to the Council towards the provision and maintenance of a reptile receptor site, as viviparous lizards and slow worms have been found at the site, and a commitment to provide Biodiversity Net Gain (BNG) in accordance with a Habitat Management and Monitoring Plan. BNG would be provided both off and on site, and it would be necessary for those off-site aspects to be secured by a planning obligation.
40. These obligations have been justified and I consider them to be reasonable in scale and kind to the development, are directly related to the development, and are necessary to make the proposal acceptable in planning terms. I consider therefore that they meet the three requirements of Regulation 122 of the CIL Regulations and so I have taken them into account.
41. It is not disputed that the Council cannot demonstrate a sufficient supply of housing land. The Council consider the supply to be 3.46 years, with the appellant suggesting it is now 2.14 years based on the calculations used in the standard method. Either figure shows a considerable shortfall. Furthermore, the progress with the emerging Local Plan has stalled in light of the amendments to the Framework and the Council advise that a Regulation 18 consultation will not occur until the autumn. The provision of five houses and of a financial contribution to affordable housing are both significant benefits.
42. The Council's failure to demonstrate a sufficient supply of housing triggers the application of paragraph 11d of the Framework. This states that in such circumstances planning permission should be granted unless the application of policies that protect assets or areas of particular importance provide strong reasons to refuse the development. As set out above, the development would conflict with the policies that seek to protect NLs and heritage assets. The development therefore does not benefit from the presumption in favour of

sustainable development. Moreover, the most important development plan policies are consistent with the Framework so can be given considerable weight.

43. It is acknowledged that a large proportion of the District is Green Belt and NL and therefore much housing development, including allocated sites, will necessarily be affected by these designations. Moreover the site is well located in Kemsing and would have reasonable access to the services therein. These factors have a moderate bearing on my considerations.
44. There would be some modest benefits to the local economy through the construction and occupation of the additional units. There would also be on and off-site biodiversity benefits of just over 10% in habitat units and 500% in linear habitats. However, given the relatively small scale of the proposal these are of limited benefit.
45. The appellant refers to two appeals² for development in the Green Belt where Inspectors found that very special circumstances outweighed harms. In one, the housing land supply position was agreed to be 1.36 years and the proposal was for 220 homes, whilst in the other the agreed housing land supply figure was 1.7 years and the proposal was for 95 units. Clearly these two cases are not comparable to the current appeal which would be of lesser benefit in terms of housing provision and against a better housing land supply background.

Green Belt Balance

46. The development is inappropriate in the Green Belt and would harm the openness of the Green Belt. These factors carry substantial weight. The proposal would also harm the character and appearance of the area including the NL and the settings of the KCA and a listed building. These harms are of great weight.
47. Balanced against that are the other considerations set out above. Overall I find that the other considerations do not clearly outweigh the harms to the Green Belt and the other harms identified. They do not therefore amount to the very special circumstances required to justify the development.

Conclusion

48. I conclude that the proposal would fail to accord with the development plan taken as a whole. There are no material considerations that indicate that a decision should be taken otherwise than in accordance with the development plan. As such, the appeal is dismissed.

A Owen

INSPECTOR

² Refs APP/N1920/W/24/3346928 and APP/B1930/W/24/3343986