
Appeal Decision

Site visit made on 12 June 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th July 2025

Appeal Ref: APP/J2210/W/24/3356739

Land between St Teresa and Glen Cottage, Clapham Hill, Easting (x): 610627 and Northing (y): 163900

- 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 Hadler against the decision of Canterbury City Council.
 - The application Ref is CA/24/00328.
 - The development proposed is 2 No. Detached 4 Bed Dwellings with associated Parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was submitted with a drawing which details proposed visibility splays for the appeal site's vehicular access (Ref: 23075 P05). 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.
3. In this case, the parking plan depicts additional detail in relation to visibility splays, rather than amendments to the proposal. The Council has confirmed that the Highways Authority has viewed the additional drawing and provided comments. For this reason, I consider that there would be no prejudice to any party by considering the additional drawing submitted with the appeal. I have therefore determined the appeal on the basis of the additional drawing.
4. However, as part of the final comments on the appeal, the appellant sought to submit a further updated drawing (Ref: 23075 P05) which included amendments to the visibility splays for the appeal site's vehicular access. I have considered whether it would be appropriate to accept the drawing, having regard to the guidance in the 'Procedural Guide: Planning Appeals – England' (2025). As the drawing was submitted at the final comments stage, interested parties such as the Highways Authority, have not had an opportunity to provide additional representations related to this issue. I have therefore not accepted this drawing as it would be procedurally unfair to do so.

Main Issues

5. The main issues are:
 - the effect of the proposal on protected species;
 - the effect of the proposal on highway safety; and

- whether the proposed dwellings would be in a suitable location having regard to local policies concerned with housing in rural areas and the accessibility of the site to services, employment opportunities and facilities.

Reasons

Protected species

6. Kent County Council's Ecological Advice Service indicate that, from the information available to them, there are habitats present within the site which could support protected/notable species. Whilst the appellant indicates that the appeal site is maintained land, no substantive evidence has been provided to demonstrate that protected species are not present. Given the vegetated nature of the site and its surrounding context, the possibility that the site could potentially accommodate and/or provide foraging opportunities for protected species cannot be ruled out.
7. Paragraph 99 of Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
8. In the absence of an ecological assessment or any survey work, the effect of the development on protected species and habitats, and the ability to mitigate any harm, is unknown. Given my responsibilities to protected species, the necessary confirmation of protected species on site, and the formation of potentially sufficient or proportionate mitigatory measures are matters that cannot be left to a planning condition.
9. Consequently, there is insufficient evidence to demonstrate that the proposal would have an acceptable effect on protected species and biodiversity, contrary to the relevant provisions of policy LB9 of the Canterbury District Local Plan (2017) (CLP) which requires proposals to enhance habitats and protect on-site biodiversity. As such, I must take a precautionary approach and find the proposal would conflict with the National Planning Policy Framework (the Framework) which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Highway safety

10. The visibility splays on the submitted drawing are drawn from the offside rather than the nearside of the kerb. They are also shown to extend over third party land outside of the appellant's control. For this reason, it has not been demonstrated that appropriate visibility splays for the vehicular access could be achieved.
11. In light of the above, I find that the development would have a harmful effect on highway safety in the area. In this regard the proposal would conflict with policy DBE3 of the CLP, which amongst other matters, requires the safe movement of pedestrians, cyclists and cars within and around the proposed development. It would also conflict with the aims of the Framework which requires that

development should create places that are safe, secure and attractive, and which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

12. The Council also alleges a conflict with policy T9 of the CLP with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Suitable location

13. Policy SP4 of the CLP sets out the strategic approach to the location of development. It identifies that the urban areas of Canterbury, Herne Bay and Whitstable are the principal focus for development together with development at the rural service centres and local centres.
14. Yorklets is not identified as a settlement within Policy SP4. Therefore, the proposal, which is for open market housing that would be located outside any defined settlement is within the countryside for the purposes of planning policy. Policy HD4 of the CLP sets out the limited circumstances where planning permission for new dwellings in the countryside may be granted. The proposal would not meet any of the circumstances listed within the policy.
15. The appeal site is located near to existing dwellings within the linear residential development on Clapham Hill. As a result, the appeal site is viewed within a residential setting rather than as part of the open countryside. Therefore, it is not isolated in the context of paragraph 84 of the Framework, which sets out that new isolated homes should be avoided in the countryside.
16. On this stretch of Clapham Hill there is variation in the height, bulk and forms of dwellings, which are designed in a range of traditional and contemporary styles and set within plots of varying sizes. The proposed dwellings would be sufficiently spaced, and set away from the appeal site's boundaries. The proposal would infill an area of ribbon residential development, and consequently would not have a significant visual effect on the openness of the surrounding area. Furthermore, the retention of much of the existing tree planting along the site's frontage would ensure that the proposal would not result in harmful urbanisation of this stretch of Clapham Hill. As a result, the dwellings would not be uncharacteristic additions to the local street scene.
17. The appellant indicates that there is a bus stop circa 280 metres south of the appeal site which is located on the same side of the highway and is entirely accessible via pavements. To the north, there are bus stops on both sides of the highway, approximately 330 metres from the appeal site which can also be accessed via pavements. The bus stops are served by the local 400 bus service which the submitted evidence indicates runs regularly throughout the majority of the day from Monday to Saturday. The service runs between Canterbury, Whitstable and Herne Bay. It provides a reasonably attractive, alternative means to the use of a private car to access local services, facilities and employment opportunities within the district's three principal urban areas.
18. During my site visit, I walked along stretches of the pavement surrounding the appeal site. Whilst located on an incline, it seems to me, that it is not sufficiently steep to preclude the majority of future occupiers from using the pavements which appeared well-maintained and of a reasonable width for pedestrians. Whilst the

bus stops are not lit or covered, the appellant's evidence indicates that this would not be unusual as the majority of bus stops on this bus route are not covered. Consequently, future occupiers would have a clear alternative to private vehicles which would enable them to undertake local journeys by other modes of transport.

19. My attention has been drawn to a previous appeal decision¹ whereby a main issue was also whether the appeal site would be a suitable location for housing with regard to local and national policies. However, the site-specific circumstances between that previous appeal and the appeal scheme before me appear to be materially different. As such, the previous appeal has limited weight, and I have come to my own judgement based on the specific context of this appeal site, my own observations, and the evidence before me.
20. Services and facilities within the built up area of Whitstable and in closer locations, such as the Estuary View business park could also be accessible by foot. However, given the distance involved to reach these, it seems to me, that this is not likely to be a particularly attractive option for the majority of people. Notwithstanding this, I have found that the site would be accessible to local facilities by public transport, as well as by relatively short car journeys. Whilst the Framework is clear that sustainable transport should be promoted, it does recognise at paragraph 110 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
21. Due to the site's location outside of an existing settlement there would be a tension with policies SP4 and HD4 of the CLP. However, as the proposal would be acceptable in all other respects and would bring about other benefits, including the provision of two additional dwellings, the development would accord with policy SP1 of the CLP which identifies that a positive approach will be taken towards development that constitutes sustainable development. I also find no overall conflict with policies LB10 and DBE3 of the CLP. Amongst other things, these policies seek to minimise less sustainable forms of travel and require high quality design which respects the character, setting and context of the site.
22. Therefore, in the particular circumstances of this case, I conclude that the site is a suitable location for residential development and the proposal would accord with the development plan when taken as a whole.

Other Matters

23. The site is within the zone of influence of the Thames, Medway and Swale Estuaries and Thanet Coast and Sandwich Bay Special Protection Areas (SPAs). In combination with other development in Canterbury, the proposal has the potential to create recreational disturbance in those areas by increasing the resident population. There would therefore be a likely significant effect on the SPAs.
24. Policy SP6 of the CLP explains that in these circumstances new developments are expected to fund management and monitoring measures to mitigate these impacts. The appellant has indicated a willingness to sign up to the Strategic Access Management and Monitoring agreement as requested and has submitted a Unilateral Undertaking to secure the requisite contribution. However, given the

¹ APP/J2210/W/22/3306671

harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

25. Future occupiers of the proposal would contribute to local tax revenue, which in turn would support community services. The proposal would create temporary employment opportunities during construction and there would be associated spending in the local area on subsequent occupation of the dwellings. Taken together, these benefits attract moderate weight in favour of the appeal proposal.

Planning Balance and Conclusion

26. The main parties agree that the Council cannot demonstrate a five year supply of deliverable housing land. I note that the Council's Annual Monitoring Report provides a supply figure of 4.16 years. Furthermore, I note the Housing Delivery Test (2023) identifies that the Council has delivered only 67% of its required housing over the past three years. Therefore, from the evidence before me paragraph 11(d) of the Framework is engaged. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
27. The contribution of two new dwellings must be viewed in light of the Council's inadequate housing supply and delivery, which has been persistent. In this context I recognise that the proposal would provide two dwellings reasonably quickly due to the small scale of the scheme. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirement of the area. I attach significant weight to the potential contribution that the appeal proposal would make to the shortfalls in housing supply and delivery.
28. However, Paragraph 193 of the Framework sets out the principles for how decisions should protect and enhance biodiversity. Policy LB9 of the CLP is therefore consistent with the Framework. In view of my conclusions on the potential effect on protected species, the appeal proposal conflicts with both the Framework and the development plan. Having regard to the statutory provisions regarding protected species, I attach considerable weight to that potential for harm.
29. Furthermore, I have concluded that the proposal would have a harmful effect on highway safety in the area. Given the aims of the Framework to ensure that development creates places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, I afford significant weight to the proposal's harmful effect on highway safety.
30. Therefore, the potential ecological harm that I have identified and the harmful effect on highway safety would significantly and demonstrably outweigh the benefits of the appeal proposal when assessed against the policies in the Framework taken as a whole.
31. There are no matters weighing in favour of the appeal proposal that either individually or collectively justify a decision being taken contrary to the

development plan, including the contribution to the supply of housing in the area that would arise. For the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR