



Appeal Decision

Site visit made on 24 June 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th August 2025

Appeal Ref: APP/H2265/W/24/3353979

Ryarsh Place Farm, Birling Road, Ryarsh, Kent ME19 5LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Bridger against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/23/03202.
 - The development proposed is “outline application for the demolition of an existing range of modern agricultural buildings and the redevelopment of the site with six dwellings with garaging together with an associated creation of car parking and turning areas, conversion of existing stable building into an ancillary domestic outbuilding and landscaping works”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an outline application with detailed plans in relation to access, layout and scale. I have therefore determined the appeal on the basis that appearance and landscaping would be reserved matters. The elevations submitted showing the detailed design are for illustrative purposes only.
3. A unilateral undertaking to secure a financial contribution towards open space provision was submitted with the appeal and I have had regard to it in coming to my decision.

Main Issues

4. The main issues are the effect of the appeal proposal on:
 - the living conditions of nearby residential occupiers and the operation of the adjacent school with particular regard to privacy and outlook;
 - the character of the area; and,
 - the living conditions of future occupiers with particular regard to noise and disturbance to plot 6.

Reasons

Effect on Nearby Residents and School

5. The 6 dwellings would each be 2 storeys with the layout plan and illustrative elevation showing the front elevations facing the access road and school and the

rear elevations and gardens facing existing dwellings at Ryarsh Place, Little Ryarsh and Orchard House.

6. Although the appearance of the houses would be a reserved matter, from the layout and scale shown on the proposed drawings it would be reasonable to conclude that windows to habitable rooms would be required to the principal front and rear elevations of each house.
7. At street level, the appeal site is separated from the dwellings to the rear by a substantial boundary wall which would prevent any loss of privacy at this level. However, at first floor, the introduction of windows would lead to direct overlooking of gardens and first floor accommodation at Ryarsh Place, Little Ryarsh and Orchard House. The parties accept that in the absence of any specific policy standard regarding separation distances to protect privacy, this is a matter of planning judgement. I acknowledge that the affected gardens are large. Nevertheless, there would be clear views into them from any first-floor rear windows, which would lead to actual and perceived loss of privacy.
8. The proposed dwellings would not be set any further forward towards the school than the existing barns although plots 1 and 2 would be located in a yard area where there is currently no built development. At first floor, there would be significant opportunity for overlooking to areas that the school states are routinely used including a playground for the earlier primary years and the forest school area.
9. The layout is such that it would be difficult to conceive a scheme whereby the first-floor elevations facing the school and residential properties would not contain habitable room windows, particularly given the houses would comprise 3 or 4 bedrooms, likely to be accommodated at first floor. Whilst I note that there may be the opportunity for some windows to face north or south, it would be highly unlikely, or desirable, that this could be achieved for each dwelling. In attempting to achieve this, it would be difficult to prevent the loss of privacy whilst maintaining a coherent design without extensive blank walls to the front or rear elevations.
10. I note the proposed landscaped strip adjacent to the boundary would assist in maintaining privacy at street level where there is already planting, but it would take several years to mature to provide a significant visual screen at higher levels. At street level the privacy to the school grounds could reasonably be addressed by an appropriate planning condition requiring a fence or similar more solid boundary treatment, however this would not address the harm to privacy from upper floor windows.
11. I note the concerns of the Council regarding the pressure for future removal or modification of trees from future occupiers, however this matter could be addressed in detail in a landscaping scheme.
12. The school grounds are spacious, and the appellant suggests activities could potentially be reconfigured to reduce any actual or perceived loss of privacy to the outdoor learning areas. Whilst I accept this could be the case, the outdoor areas of the school affected are specific in their function in terms of the play area and forest school area and are not just generic playing fields. Their relocation or redesign would be disruptive and come at a cost to the school. It would not be a reasonable expectation that the school modify their activities to accommodate the appeal scheme. I recognise that the school is not used for extensive periods during

holidays or weekends, however, this would not mitigate the harmful effect on privacy during the times when the relevant outdoor areas are in use.

13. My attention has been drawn to the relationship between a school and dwellings backing onto it in nearby Kings Hill, and I accept that it is common for schools to have boundaries with dwellings. Nevertheless, the appeal turns on its own facts, and in this case, the outdoor area of the school is not currently overlooked. The proposal before me would introduce the potential for significant loss of privacy to the existing playing and learning areas located close to the boundary.
14. I note the appellant's offer to vary the height and pitch of the roof of the car port to help obscure any potential views between first floor windows. The scale of the buildings has however been applied for in detail, and any change in scale to the car port is not before me in the appeal scheme.
15. Due to the presence of the existing barns, there is built development directly adjacent to the appeal site's boundaries with Orchard House and Little Ryarsh. The proposed houses would be set back from this boundary due to the rear gardens and accordingly would not introduce an unacceptably overbearing development sufficient to result in loss of outlook to any of the existing houses to the rear. The absence of harm in this respect does not outweigh the harm I have already identified to the privacy of the school and nearby dwellings.
16. Whilst I acknowledge that the appearance is not a detailed matter before me, it would necessarily be informed by the proposed layout and scale of the dwellings. The proposed layout and scale lead me to conclude that there would be a harmful loss of privacy to both the residential occupiers to the rear of the site, and to the outdoor areas of the school.
17. In conclusion on this main issue therefore, the appeal scheme would significantly harm the privacy of nearby residential occupiers and it would harm the operation of the adjacent school through loss of privacy to its outdoor space. This would run contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 (Core Strategy) insofar as it aims to prevent new development which would be detrimental to amenity through its design.

Character

18. The appeal site, accessed via an existing track off Birling Road, comprises a large area of hardstanding with 2 pitched-roof barns, set at right angles to each other. There are also 2 outbuildings which abut the boundary with Little Ryarsh and Ryarsh Place. The character of the area immediately surrounding the site is of low-density development to the edge of the village.
19. The layout of the site was applied for in detail and the drawings show a linear form of development fronting the internal road, with gardens to the rear. Due to the form of development and relative position of the boundary wall and access road, the rear gardens would be constrained in their size. Whilst the linear form of development is more commonly found in the historic core of the village, my attention has been drawn to similar pockets of development in more outlying locations including Brick Gardens and Old School Lane which are set away from the main village. Although the surrounding built development has large gardens, the absence of front gardens is not in itself out of character with the wider village. I

do not consider the linear form of development proposed would be inherently harmful to the character of the area.

20. The site narrows to the south. In the layout proposed, this would result in a rather constrained site for plot 6. I consider that this would also be the case to a lesser extent for plots 2 and 3, where rear gardens would be restricted due to the outbuildings and parking. I have not been referred to any specific policy regarding the footprint or dimensions of garden areas, and whilst they would be constrained, they would offer sufficient space for sitting out and other domestic necessities such as drying washing.
21. In conclusion on this main issue therefore, I do not find that the proposal would be unacceptably harmful to the character of the area, and in this respect it would be in line with the aims of Core Strategy Policy CP24 insofar as it requires all development, through matters including but not limited to, layout and scale, be designed to respect the site and its surroundings.

Living Conditions of Future Occupiers

22. Although there would be vehicles and pedestrians using the access road, the pattern of movement is unlikely to be constant given the scale of the proposal. There would inevitably be some disturbance from car doors slamming and general activity arising from the occupation of the proposed housing. However, given the existing residential character of the area and modest number of houses proposed, the additional activity from the parking area would not introduce unacceptable harm to the living conditions of the future occupiers of any dwelling within plot 6. Moreover, mitigation could be secured by condition to visually screen and landscape between the adjoining dwellings and the proposed parking court and manoeuvring area.
23. Accordingly, the proposal would not have a harmful effect on the living conditions of future occupiers of any dwelling within plot 6, in respect of noise and disturbance. The proposal would therefore accord with the aims of Core Strategy Policy CP24 insofar as it aims to prevent new development which would be detrimental to amenity through its design.

Other Matters

24. The appeal site is proximate to the Grade II listed building of Ryarsh Place, which is located to the west of the appeal site. A former stable and substantial boundary wall to the rear of the barns are located within the appeal site and along its boundary. These structures have an historic connection with Ryarsh Place and the wall would have formed part of a walled garden. The Council considers the former stable block and the boundary wall to be curtilage listed (Grade II) and I see no reason to disagree. All these structures would be retained in the scheme, and no works are proposed to them.
25. Ryarsh Place comprises an 18th Century house with later additions and alterations, set in a large garden. The significance of the building is derived from its domestic architecture in terms of its use of render, its elevational composition and window pattern, along with its verdant garden setting. It is principally experienced in views from Birling Road to the front of the house, with some views from the appeal site and Public Right of Way to the south.

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 Ryarsh Place and its curtilage buildings. Due to the presence of the curtilage buildings and proximity of the appeal site to Ryarsh Place, there is an interrelationship between the appeal site and the listed buildings. The removal of the barns would re-expose a section of the historic wall and better reveal the stable block to views from within the appeal site. The proposed dwellings would be set away from the listed structures, and given their location I consider the proposal would preserve and enhance the setting of the listed building and the contribution the setting makes to its significance. The benefit in this respect however does not alter my overall conclusions.
27. The stable block and wall are also located within the Ryarsh Conservation Area (CA), although it does not cover the remainder of the appeal site. The statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
28. The CA comprises the historic village core and is predominantly residential in character. I consider its significance is derived largely from the historic street pattern, with its public house and collection of dwellings of traditional vernacular design with a mixture of red brick, hung tiles and stone fronted buildings with tiled roofs, all set within rural surroundings. Bearing in mind the extent, nature and location of the proposed development, the character and appearance of the CA as a whole would be preserved. I note that the Council raised no objection in this regard either. Nevertheless, the lack of harm is a neutral consideration which does not weigh in favour of, or against the appeal proposal or alter my conclusions on the main issues.
29. The appeal site is within the Kent Downs National Landscape (KDNL). Section 245 of the Levelling Up and Regeneration Act 2023 (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of National Landscapes, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). In so far as it relates to this appeal, the amendment now requires relevant authorities “in exercising or performing any function in relation to or so as to affect land in an AONB... to seek to further the purpose of conserving and enhancing the natural beauty of the AONB”. The Council does not consider that the redevelopment of the site in principle would be detrimental to the quiet enjoyment or beauty of the KDNL. There is no substantive evidence which would lead me to disagree. However, the lack of harm in this respect is a neutral factor which does not weigh in favour of the scheme.
30. The Council also finds that the scheme would not be inappropriate development within the Green Belt, and would be acceptable in relation to flood risk, drainage and matters of highway safety. I do not have compelling evidence before me to contradict the conclusions of the Council in these matters, so I see no reason to disagree. Nevertheless, the absence of harm means these are neutral considerations in my determination of the appeal.
31. The Council indicate that on schemes of 5 or more dwellings there would be a requirement for a contribution to open space provision in line with Policy OS3 of the Managing Development and the Environment Development Planning Document adopted 2010. The appellant has provided a unilateral undertaking

which would secure a financial contribution of £30920 towards off-site open space provision. As I am dismissing the appeal for other reasons, I have not pursued this matter further.

32. I have had regard to other planning and non-planning matters raised by interested parties including, but not limited to, the effect of the proposals on highway safety, noise and inconvenience from construction works, public health matters, and biodiversity. As I am dismissing the appeal on one of the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

33. The proposal would deliver a net gain of 6 new family sized dwellings. The scheme would be an efficient use of brownfield land in a sustainable location. It would support the Government's aim of significantly boosting the supply of homes. However, the addition of 6 homes would provide a reasonably limited contribution in this context and I attach moderate weight to this benefit.
34. There would be temporary and ongoing economic benefits from the development through construction and future residents' use of local shops and services, but given the modest number of dwellings, those benefits would be limited. Whilst the financial contribution towards open space provision as set out in the unilateral undertaking is a requirement of the Local Plan, it is nevertheless a moderate benefit arising from the proposal. There would also be heritage benefits arising from the removal of the barns to better reveal the curtilage listed boundary wall and stable building.
35. Set against these benefits, there would be significant harm to the privacy of the neighbouring residential properties and school. I have judged the magnitude of this harm as significant.
36. The Council acknowledges that it cannot demonstrate a 5-year supply of land for housing, which the Council indicate to be at an equivalent of 4.36 years' supply. In these circumstances paragraph 11d) of the Framework is applicable. For the reasons set out above, it is not in dispute that under 11d(i) policies in the Framework that protect areas or assets of particular importance identified in footnote 7 would not provide a strong reason for refusing the development.
37. Footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for 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.
38. As described above the benefits associated with 6 additional dwellings would be moderate even taking account of the Framework's objective of boosting significantly the supply of housing, and the Council's housing land supply position. However, the proposal would conflict with policies of the Framework which aim to create places with a high standard of amenity for existing and future occupiers (paragraph 135). I attach significant weight to this conflict.

39. The harm to the living conditions of surrounding occupiers would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
40. The proposal would conflict with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

L Francis

INSPECTOR