



Appeal Decision

Site visit made on 24 July 2025

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 AUGUST 2025

Appeal Ref: APP/E2205/W/25/3358873

Land to the south of Plain Road and east of Calland, Smeeth, TN25 6QN

- 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 Quinn Homes against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/0632.
 - The development proposed is the erection of up to 9 custom-built dwellings.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Quinn Homes against Ashford Borough Council. That is the subject of a separate decision.

Preliminary Matters

3. I have based the site address in the header above on that given on the application form.
4. The application was originally submitted in outline with matters of access and layout to be considered at this stage, and matters of scale, appearance and landscaping to be reserved for later consideration. However, during the determination of the application the proposal was amended so that layout was also reserved. I have considered the appeal on the same basis and so have treated any drawings that show details relating to the reserved matters purely on an illustrative basis. The description of the development was also changed from '9 dwellings' to 'up to 9 dwellings'. This does not materially affect my consideration of the proposal which is on the basis of the possibility of 9 houses.

Main Issues

5. The main issues are:
 - i) the effect of the development on highway safety;
 - ii) the effect on the living conditions of neighbouring occupiers in terms of noise and disturbance;
 - iii) whether a contribution to affordable housing is necessary and if so whether there is a suitable mechanism in place to secure that;
 - iv) the effect on the character and appearance of the area; and
 - v) the effect on biodiversity.

Reasons

Highway safety

6. The plans show the site would be accessed from Plain Road at two points; one for pedestrian and cycle access only, and another for vehicular access. The vehicular access would be between the bungalows at Lucerne and The Glen and would use an existing driveway that serves these two properties plus Rosedale House. The appellant has demonstrated they have a right of access to the appeal site using this driveway.
7. The Council have measured the width of the existing access between the two kerbs to be 2.8 metres wide at its narrowest point. However there are verges to either side which, the evidence shows, are included within the right of access and therefore could be included within a widened vehicular access. Although the verges are owned by the occupiers of the adjoining properties, it is not necessary for an appellant to own all parts of an appeal site, and the use of those verges would be a matter for the respective parties to resolve. The Highway Authority state that the width of the access could technically be sufficient, and my attention has been drawn to the Kent Design Guide (KDG) which suggests a width of 3 metres would be suitable for a development of this scale.
8. However, the KDG also sets out that such accesses should also provide a footway of 1.8 metres in width. Whilst it may not be necessary for a footway of this width to be provided along the entire length of the access, it would be important that some room for pedestrians is provided. Even with widening of the access, I would not be confident there would be sufficient room for this. Without space for pedestrians and vehicles to pass, the use of the access would be dangerous. Whilst I recognise the intention would be for the development as a whole to have a shared surface, it does not negate the need for there to be sufficient width in the access for cars and pedestrians to pass safely. I note that occupiers of the development could use the dedicated pedestrian/cycle access point to the west, but the occupiers of The Glen, Rosedale House and Lucerne would not be likely to use this. Also, as the closest bus stop to the site is by Ramstone Close, it is likely that pedestrians would use the vehicular access as this would provide the most convenient route to it.
9. It is acknowledged that the access already serves the appeal site and that the number of vehicles that could use this is unrestricted. Nonetheless, given the site is currently undeveloped, it is clear that the proposal would generate a considerable increase in movements compared to that which the site currently generates or which it could be likely to generate in its lawful state.
10. As such, I consider the development would fail to provide sufficient access for vehicles and pedestrians and would therefore compromise highway safety. It would therefore fail to accord with policy HOU5 of the Ashford Local Plan (2019) which requires development to be able to be accessed safely from the local road network, and Local Plan policy TRA7 which sets out that access will not be permitted if a clear risk of road traffic accidents would be likely to result.

Living conditions

11. As set out above, the intensification of the access would result in an unsafe pedestrian environment for occupiers of the development and for the occupiers of the three properties which currently use the access. However, in addition to that,

the increase in traffic would also result in an increase in noise and disturbance being caused to the residents of Lucerne and The Glen. Both these properties have their front doors facing towards the access. Whilst there would be sufficient distance between the front doors and the access such that it would not be unsafe for residents to enter and leave their houses, both properties are close to the driveway and appear to have habitable rooms with facing windows.

12. The traffic generated by the proposal would be modest, amounting to less than five trips in the peak hours. Nonetheless, in the context of the volume of traffic that currently uses the access, it would represent a substantial increase and so would result in a substantial increase in noise from comings and goings which would be disturbing to the occupiers.
13. It would be unreasonable to rely on the occupiers of The Glen to erect a boundary fence to mitigate noise from passing vehicles, and despite being a car width away from the access road, I would also not consider this provides sufficient mitigation. In terms of Lucerne, the distance between the access and the facing windows is even less.
14. Reference has been made to Maple Crescent which is a development of six units behind the houses on the Plain Road frontage. Whilst the road serving that development passes close to No 7, the traffic generated by those six backland houses would be less than that generated by the current proposal. It is also the case that only No 7 faces, and is close to Maple Crescent, whereas in this case two houses would directly and closely face the access.
15. In summary, the increase in vehicles passing The Glen and Lucerne, would harm the living conditions of the residents of those properties. The development would therefore be contrary to the advice in the National Planning Policy Framework (the 'Framework') which, in paragraph 135, states that developments should provide a high standard of amenity for existing users.

Affordable housing

16. Policy HOU1 of the Local Plan sets out that affordable housing would be required on schemes of 10 units or more and on sites of 0.5ha or more. The site measures 0.9ha. As such the policy requires the provision of affordable housing, and in this location, the Council advise 40% of the units on site should be affordable.
17. The Framework advises, in paragraph 65, that affordable housing should not be sought for development that is not major development, the definition of which is set out in the Glossary to the Framework. This is consistent with policy HOU1. The scheme, as a result of its site area, would meet this definition of major development.
18. It is recognised that The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) effectively defines major development as involving a site over 0.5ha where the number of dwellings isn't known. In this case the number of dwellings is known. However I consider the development plan and the Framework to be more relevant for decision making purposes and so the proposal should be determined in that context. I acknowledge the contents of the 2025 working paper which seeks, among other things, to apply the definition of major development in the DMPO to the provision of affordable housing. Nonetheless, this is not adopted policy and so carries little weight at present. Also,

the comments of the Inspector into the Local Plan examination are noted, but these only suggest the 10 unit part of their threshold tallies with national policy, not that the 0.5ha part of the threshold set out in the policy does not.

19. As such I consider the development is liable to contribute to affordable housing.
20. A completed unilateral undertaking has been provided which purports to secure a contribution to off-site affordable housing to be calculated in accordance with a formula to be agreed with the Council later. However, the Council are not a party to the undertaking so are not obligated by it, and there are no details of any formula so I could not be confident that the contribution would be fairly related to the development in scale. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties. Nonetheless, as it stands, I am not satisfied that the submitted undertaking could secure the affordable housing required and I have therefore not taken it into account.
21. In any case, policy HOU1 only allows for off-site contributions when there is evidence to demonstrate that on-site provision is unviable. There is no such substantive evidence on this matter before me. Hence, even if I were to take the obligation into account, I could not conclude that it would secure a policy compliant contribution.
22. Policy HOU14 is also referenced by the Council which requires dwellings to comply with sections of Part M of the building regulations which relate to accessibility. I have no reason to consider the dwellings could not meet these Regulations and therefore could accord with this policy subject to details provided at the reserved matters stage.

Character and appearance

23. The appeal site is irregularly shaped and sits behind houses on, or accessed from, Plain Road. The land south of the site is open countryside. The density of development in the surrounding area is varied, with relatively high density housing along Calland and Fortescue Place to the west, and lower density development in Ramstone Close.
24. The Site Plan illustrates how the site could be laid out. It identifies land for an attenuation basin, biodiversity and a small area, shown as a village green on the Landscape strategy drawing, as well as how nine dwellings could be arranged. The plots shown would appear to be comparable in size to many nearby including those at The Glen, The Nest and most in Ramstone Close. The nine houses shown would take up a lot of land, but some of the houses are shown to have large footprints, particularly those at plots 4, 5 and 7, and six of the plots are shown as having double garages. It is feasible that if smaller dwellings, and fewer double garages built, nine properties could be provided that would allow for plenty of space between the houses and for landscaping. The details of the layout of the site and scale of the houses would be considered by the Council in their assessment of the reserved matters. As such, the density proposed would be comparable with the area and would not be an inappropriate transition between the houses along Plain Road and the open countryside to the south.
25. In that countryside to the south there is a public footpath that crosses a field. This is separated from the appeal site by an area of woodland, which is within the appellant's ownership. Due to the mature trees within the woodland there would be

only a very limited view of the development from this public footpath and the proposal would not appear prominent from here.

26. Overall, the provision of nine dwellings would respect the character and appearance of the area. It would hence comply with policies SP1, SP6 and HOU5 of the Local Plan which together aim to ensure development is consistent with the prevailing character of the area. It would also not be contrary to Local Plan policy ENV3a which requires development to have regard to the local landscape, including in respect of the pattern of the settlement.

Biodiversity

27. An ecological survey found populations of slow worms and common lizards on the site. The appellant has suggested that to mitigate the impact of the development on reptiles, they will be translocated to a separate site totalling approx. 0.7ha, around 16km from the appeal site on land owned by the appellant.
28. The Council advised that this land should be surveyed to ensure it is suitable as a receptor site, most notably that it does not already contain reptiles. A site survey was undertaken and the report provided to the Council's legal team in March this year, and a copy attached to the completed unilateral undertaking. The survey shows that no reptiles were found and that, although the site currently provides sub-optimal habitat, it could be improved by providing hibernacula and log piles and by allowing the existing grass to grow. Although the Council have not commented on the survey, I consider it demonstrates that the receptor site would broadly meet the criteria set out in the Senior Biodiversity Officer's comments on the appeal. The completed unilateral undertaking secures the use of the receptor site.
29. The development would also involve the loss of 2380m² of woodland, and the plans indicate areas in the southwest and northwest corners of the site totalling 2830m² would be used for mitigation tree planting. Although the Council advises a Biodiversity Net Gain assessment, including the metric, should be undertaken, they accept that this is not a statutory requirement.
30. Overall, in this regard, the proposal would not have a harmful effect on biodiversity and hence would accord with Local Plan policy ENV1 which seeks to ensure that biodiversity is conserved.
31. It is understood that the site falls within the catchment of the river Stour which flows into Stodmarsh Lakes. Stodmarsh Lakes are designated as a Special Protection Area, Special Area of Conservation, Ramsar site, and Site of Special Scientific Interest. It is also understood that increased levels of phosphorous and nitrogen from waste and surface water generated by residential development causes damage to these habitats if it enters the catchment.
32. The submitted unilateral undertaking purports to secure mitigation in the form of a sustainable drainage system, a package treatment plant and the purchase of nutrient mitigation credits. However as I am dismissing the appeal for other reasons, I need not consider this issue further. This is because the measures would only mitigate harm generated by the development. It therefore cannot count in favour of the proposal and so cannot have any determinative effect on the appeal.

Other Matters

33. The Council accept they cannot demonstrate a sufficient supply of housing land. The appellant suggests the supply is 4.39 years which is only a modest shortfall. Nonetheless, paragraph 11 d) of the Framework is engaged, which requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. It adds that particular regard should be had to policies relating to design, affordable housing, the effective use of land and development in sustainable locations.
34. Although the detailed design of the houses would be addressed at the reserved matters stage, paragraph 135 of the Framework sets out that development should function well, and create places that are safe and have a high standard of amenity for existing users. The failure of the access to be safe, and its adverse impact on the amenity of the occupiers of Lucerne and The Glen mean the proposal would conflict with this policy. Moreover the failure of the development to secure affordable housing would mean it would conflict with paragraph 66 too. The Council do not dispute that the development is in a sustainable location nor that it would not make an efficient use of the land.
35. In addition the proposal would conflict with paragraph 115, which states that development should provide safe and secure access.
36. In its favour, the proposal would provide nine houses at a time when there is an undersupply. This is supported by paragraph 61. The houses would be self-build which is also supported by paragraph 63. These are both modest benefits given the small scale of the development and the modest shortfall of housing land supply. I also have no evidence to suggest there is a particular shortfall for self-build homes. The development would provide some limited economic benefit during the construction period any beyond.
37. I cannot give weight to any environmental benefit of energy efficient houses as no detailed designs are before me at this outline stage. Also, the other obligations within the legal agreement relating to adult social care, community learning, libraries and secondary education would mitigate the effects of the development and so carry neutral weight.
38. Overall, considering the policies of the Framework as a whole, I consider the adverse impacts would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does therefore not apply.

Conclusion

39. Although the development would not harm the character and appearance of the area or biodiversity on the site, it would be harmful to highway safety, the living conditions of neighbouring residents, and would fail to secure affordable housing. As such, for the reasons given above, the proposal would conflict with the development plan taken as a whole. There are no other material considerations, including the provisions of the Framework, that indicate a decision other than in accordance with the development plan. Consequently the appeal should be dismissed.

A Owen
INSPECTOR