



Appeal Decision

Site visit made on 18 August 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

Appeal Ref: APP/G2245/W/25/3366456

23 Market Square, Westerham, Kent TN16 1AN

- 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 TN16 1 Ltd against the decision of Sevenoaks District Council.
 - The application ref is 24/01526/FUL.
 - The development proposed is change of use from E(b) to C3(a) for an existing restaurant store. Conversion of the existing store to a dwelling with a proposed first floor extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is:
 - the effect of the proposal on the character and appearance of the area, including whether the proposed development would preserve or enhance the character or appearance of the Westerham Conservation Area (CA) and conserve and enhance the natural beauty of the Kent Downs National Landscape (KDNL).

Reasons

3. The appeal site is situated within Westerham, a settlement located within the KDNL. Section 85 of the Countryside and Rights of Way Act (2000), as amended by section 245 of the Levelling-up and Regeneration Act (2023), requires relevant authorities to seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes.
4. The KDNL Management Plan (2021 – 2026) describes that the rich legacy of historic and cultural heritage forms part of the special quality of the landscape. This includes distinctive historic settlement patterns, the architectural distinctiveness of buildings and the diverse range of local materials used such as ragstone, brick and timber which contributes to the character, colour, tone and texture of the countryside.
5. The appeal site is also situated within the Westerham Conservation Area (CA). In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The Westerham Conservation Area Appraisal and Management Plan (2015) (the CA AMP) identifies that the special interest of the CA lies in its form as a historic

market town set on a small hill within a valley. The views from the town into the rolling undeveloped countryside provides a rural setting to the settlement. The built form is described as having an organic history resulting in a variety of materials, however there is a consistency with red/orange tiles, local red stock bricks and white or other softer shades of render, along with ragstone detailing and walls. The CA AMP describes a richness, variety, quality and history of townscape and landscape within the CA.

7. Specifically, the site is located within the Green, Market Square and Fullers Hill character area of the CA. This is described as the historic centre of the town with buildings grouped in a picturesque manner around the Green and Market Square. The historic market square remains active and is described as providing a sense of prosperity. The built form is mostly modest in scale around Market Square, with a mixture of two and three storey buildings. Nos 17 – 23 Market Square are identified as an arcade of shops providing a good example of preserved architectural harmony.
8. The appeal site presently comprises part of the rear of the plot of No 23 Market Square (No 23) and contains an unimposing single storey building which is constructed in brick with a tile-hung hipped roof with a single gable. Views of the site are not possible from the frontage of Market Square. However, access through a side street from Market Square allows access to Bonneval Gardens and the parking area for Russell House where the appeal site would be visible from. A public footpath also runs to the rear of Bonneval Gardens. However, I observed on my visit that due to the footpath being at a much lower ground level, the appeal site is not readily visible from this location. Private views of the appeal site are also possible from within the garden terrace area associated with the nearby King's Arms Hotel. As you go away from the appeal site through Bonneval Gardens, the area opens up into the countryside.
9. The development to the rear of Market Square is varied and is influenced by more recent development, such as Russell House and the various extensions and outbuildings situated to the rear of the buildings along Market Square. There are also some more modern properties close to the appeal site set along Yew Tree Mews.
10. Whilst the scale and appearance of the streetscape to the rear of Market Square is varied, the appeal site and existing building appears as part of the curtilage of No 23 and as a subservient structure to this frontage principal property. This distinguishes the appeal site from the other larger properties in the backland location such as Russell House and the houses along Yew Tree Mews which appear as principal properties rather than subservient buildings.
11. The appeal site respects the historic pattern of development, appearing as an unimposing and subservient structure to the rear of the plot of No 23, rather than a separate entity. Furthermore, its form and materials are in keeping with the prevailing architectural distinctiveness of the wider CA. Whilst the evidence shows the building is not of historic significance itself, it is unimposing and complimentary to the area and therefore the appeal site and existing building currently has a neutral contribution to both the character and appearance of the Conservation Area and the natural beauty of the KDNL.

12. The appeal proposal would divide the existing curtilage and introduce a detached mono-pitched dwelling of two storey stature. The division of the plot and creation of a new residential curtilage, along with the height, bulk and mass of the dwelling would eliminate the subservient nature of the plot to No 23 and erode the legibility of the historic settlement pattern within the area by introducing a prominent two storey building within this location.
13. The design of the dwelling itself would also be significantly at odds with the prevailing character and appearance of the area to the rear of the plots behind Nos 17 – 23 Market Square. This built form is predominantly single storey outbuildings and extensions, along with modest two storey extensions situated directly on the rear elevations. As such, the two storey bulk, scale and mass of the proposed detached dwelling located at the end of the plot of No 23 would appear overbearing and out of keeping within the immediate area along with being domineering of its small backland plot.
14. The CA AMP identifies that side streets and passageways leading from the main routes creates a sense of the unexpected. Whilst the dwelling in this location would be unexpected, it would not be in a way which positively responds to the character and appearance of the area.
15. Furthermore, the shallow mono-pitched green roof and prominent rear balcony with a glass balustrade would be distinctly out of keeping with the immediate built form and the built form within the wider CA. The design would not be contrary to the distinctive settlement pattern, architectural distinctiveness of the area and would not effectively utilise an appropriate range of materials, with particular regard to the roof and balcony. The proposal would harm the richness, variety, quality and history of the CA.
16. The proposed development would therefore cause considerable harm to the character and appearance of the area and would neither conserve nor enhance the natural beauty of the KDNL.
17. Furthermore, the development would fail to preserve the special interest of the CA which is a matter of considerable importance and weight. In the context of paragraph 212 of the Framework, the harm identified to the CA would be less than substantial which I consider would be within the middle of the spectrum in this instance given the overall scale of the proposal.
18. Paragraph 212 of the Framework states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 215 of the Framework requires less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
19. The evidence before me shows a most recent housing land supply figure of 3.9 years from April 2023. The evidence also shows the Council's Housing Delivery Test (HDT) score was substantially below (less than 75% of) the housing requirement of previous years. It is the Government's objective to significantly boost the supply of housing, including through small and medium schemes. The proposal would make use of a previously developed site within an existing settlement to provide one new dwelling, contributing towards the Council's housing land supply. The proposal would also lead to a small and time limited economic benefit during the construction phase, as well as some limited social and economic

benefits resulting from future occupiers. The scheme would also deliver a sedum green roof and be constructed of environmentally sustainable materials delivering some minor environmental and ecological benefits. Given the small scale of the proposal, the public benefits would attract limited weight.

20. Given the harm I have identified and the limited public benefits secured by the development, I conclude that the proposal would fail to preserve the character or appearance of the CA.
21. Overall, the development would conflict with Policy SP1 of the Sevenoaks District Council Local Development Framework Core Strategy (2011) (CS) and Policies EN1, EN4 and EN5 of the Sevenoaks District Council Allocations and Development Management Plan (2015) (ADMP). These policies, amongst other matters, seek to ensure that development is high quality and responds to the distinctive local character of the area, along with ensuring development conserves or enhances the character or appearance of affected heritage assets along with the protection of the landscape and scenic beauty of the KDNL.

Other Matters

22. The Grade II listed buildings of Winterton House and the King's Arms Hotel are situated nearby the appeal site. I have not been presented with any evidence by either party that the proposal would affect the setting and significance of these buildings.
23. From the limited information before me, and based on my observations on site, the significance of both of these buildings relates to their architectural merits and association with the historic centre of the town. I also understand that Countess Winterton lived in Winterton House in the early 19th century.
24. Given the appeal scheme is set to the rear and away from both of these properties, I am satisfied that the proposal would not adversely affect the surroundings in which these heritage assets are experienced. As such, the setting of Winterton House and the King's Arms Hotel would be preserved and cause no harm to the significance of these heritage assets.

Planning Balance

25. As mentioned above, the Council cannot demonstrate a five-year housing land supply with the evidence showing a most recent position of 3.9 years in April 2023. The Housing Delivery Test also shows that the delivery of housing by the Council was substantially below the housing requirement over the previous three years.
26. The provisions of paragraph 11(d) of the Framework are therefore engaged. Footnote 8 confirms in these circumstances the policies which are most important for determining the application are deemed to be out-of-date. Paragraph 232 of the Framework confirms due weight should be given to policies, according to their consistency with the Framework.
27. Conflict with Policy SP1 of the CS and Policies EN1, EN4 and EN5 of the ADMP in relation to the effect on the character and appearance of the area, including the effect on the CA and KDNL is given significant weight against the proposal. This is due to their consistency with the Framework, namely paragraphs 135 and 139 which seeks to ensure development adds to the overall quality of the area and sets out development which is not well designed should be refused, paragraph 189

which provides great weight to conserving and enhancing landscape and scenic beauty in National Landscapes and paragraph 212 which attributes great weight to the conservation of designated heritage assets. The proposal would therefore conflict with the development plan as a whole and the abovementioned paragraphs of the Framework.

28. Paragraph 11d) of the Framework indicates that planning permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 confirms that this includes policies relating to both designated heritage assets and National Landscapes.
29. As such, the abovementioned policies of the Framework provide a strong reason for refusing the development proposed. The presumption in favour of sustainable development would therefore not apply.
30. Furthermore, whilst the development would utilise brownfield land which paragraph 125c of the Framework sets out should be given substantial weight and should be approved unless substantial harm would be caused. The harm caused by the development would meet this threshold of substantial harm for the reasons that I have given.
31. The other material considerations, which I have previously identified in my public benefits balance, carry limited weight in favour of the proposed development for the reasons that I have given and would not outweigh the harms that I have identified.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that for the reasons given above, the appeal should be dismissed.

C Housden

INSPECTOR