



Appeal Decision

Site visit made on 15 October 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/A2280/W/25/3369981

Land to the east of Eastern Road, Gillingham, Kent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Michael McGlynn of Aitco Ltd against the decision of Medway Council.
 - The application Ref is MC/25/0387.
 - The development proposed is permission in principle for the construction of a minimum of five and a maximum of five residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent (TDC) application if permission in principle is granted. I have determined the appeal accordingly.
4. The address and description of development are taken from the decision notice and appeal form as these accurately and clearly describe the development proposed.

Main Issue

5. The main issue is therefore whether the site is suitable for residential development, having regard to its amount, with particular respect to the effect on ecology, character and appearance and the living conditions of future occupiers.

Reasons

Ecology

6. An area of the site is proposed for 'ecological mitigation', which would provide for wildlife mitigation and enhancement. The evidence before me demonstrates that in July 2019 a low population of slow worms were found on the site and

representations claim that other wildlife currently uses the site. The land is covered in vegetation and it appears that this has been the case since 2019. Up to date survey information has not been submitted. Therefore, there is credible information that a protected species may be present in this case. Consequently, in these circumstances, I do not have evidence to confirm the presence or otherwise of protected species and the extent that they may be affected by the proposed development.

7. Whilst the detail of any mitigation could be secured at TDC stage, in the absence of suitable ecological evidence, I have insufficient information that the amount of development would secure an adequate space for effective ecological mitigation. Therefore, this is a relevant consideration to the permission in principle application for the development proposed. Consequently, there is unsatisfactory evidence to demonstrate that the principle of the development of this site for 5 dwellings would not have a harmful effect on protected species and ecology.
8. Therefore, the proposed development would be harmful to ecology. As such, it would be contrary to policies BNE37 and BNE39 of the Medway Local Plan (2003) (LP) which requires that development should not harm protected species, their habitats and important wildlife habitats or features.

Character and Appearance

9. The surrounding area is characterised by residential development with a range of different designs including traditional Victorian terraced houses and more modern development. The appeal site is an undeveloped, but overgrown site in this area which slopes steeply from east to west. It is mainly enclosed by dwellings and is not highly visible in the surroundings, and its existing appearance does not form an important part of the character of this area.
10. The proposed development would change the appearance of the site. However, taking into account the varied residential character of the surroundings, in principle, a residential development of five dwellings could be appropriate in character and appearance.
11. Therefore, the proposed development would have an acceptable effect on the character and appearance of the area. As such, it would be in accordance with Policy BNE1 of the LP which requires appropriate design in relation to the character and appearance of the area.

Living conditions

12. There is little detail before me regarding what aspect of future occupants living conditions would be unacceptable. The site is mainly surrounded by rear gardens of residential properties which provide separation from the adjoining dwellings. Properties along Dial Close are the nearest, and some are at an elevated height relative to the existing land levels. However, appropriate layout, window positions and boundary treatments could ensure appropriate privacy and light to future occupiers. The five proposed dwellings in a residential area would not be subject to excessive activity or traffic levels, nor is there evidence of pollution. Other relevant matters relating to the detailed design of the scheme would be considered at the TDC stage.

13. Therefore, the proposed development would result in acceptable living conditions for future occupiers. As such, it would be in accordance with Policy BNE2 of the LP, which seeks to secure the amenities of future occupiers.

Other Matters

14. The application was not refused with regard to its residential land use, and Policy H4 of the LP supports housing in urban areas including in Gillingham. Therefore, the provision of housing in this location is a positive consideration of the proposed development.

Planning Balance

15. The Council cannot demonstrate a 5 year supply of deliverable housing sites. Therefore, the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework would be engaged. This requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole having particular regard to key policies.
16. The proposed residential use would provide the social and economic benefits associated with the provision of five new houses and would be in a sustainable location in an urban area. Nevertheless, taking into account the scale of the development, this results in important, but modest benefits. Whilst I have not identified harm with regard to the amount of development with respect to character and appearance and living conditions, the lack of harm in these aspects is a neutral matter.
17. On the other hand, for the reasons set out above the amount of development would have a harmful effect on ecology including protected species which have a high level of protection in recognition of their importance. Therefore, this harm is significant and the development would not add to the overall quality of the area.
18. Evidence as to the extent of the housing land supply has not been provided, however even if there were a substantial undersupply, these significant adverse effects would significantly and demonstrably outweigh the modest benefits set out above when assessed against the Framework taken as a whole and having particular regard to key policies. Therefore, the presumption in favour of sustainable development would not apply in this case.

Special Protection Areas (SPA) and Ramsar sites

19. North Kent Marshes SPA/Ramsar Sites are important habitats sites. They are designated for their over wintering bird interest. The Council states that the application would result in increased recreational disturbance on these areas and without any mitigation in place, in combination with other plans and projects, there would be a likely significant effect on the interest features of the site from the proposed development. The appellant has made a payment towards mitigation of the effect of the proposed development on the coastal North Kent SPAs and Ramsar sites. Notwithstanding this, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Conclusion

20. 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 for the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR