



Appeal Decision

Site visit made on 29 October 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/Z2260/W/25/3365966

Disused Railway Line, Tivoli Road, Margate, Kent

(Easting: 635319, Northing:169831)

- 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 Mr Gavin Durrant (Morgcampbells Limited) against the decision of Thanet District Council.
 - The application Ref is F/TH/24/0473.
 - The development proposed is a 2 storey semi-detached dwelling with vehicular access to Tivoli Road.
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Decision

1. The appeal is allowed and planning permission is granted for a 2 storey semi-detached dwelling with vehicular access to Tivoli Road at Disused Railway Line, Margate, Kent in accordance with the terms of the application, Ref F/TH/24/0473, subject to the conditions in the attached schedule.

Preliminary Matter

2. I have taken the site address and description of development from the Council's decision notice as these are more detailed and accurate.

Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Hacklinge Marshes Site of Special Scientific Interest (SSSI).

Reasons

Character and Appearance

4. The appeal site forms part of an existing residential development which is currently under construction. Views into the site and of the appeal site are largely restricted to the site entrance on Tivoli Road, College Road and from the adjacent public footpath. It is the effect of the development upon the footpath to which the Council specifically refers in its reason for refusal.
5. When approaching along the footpath from the College Road entrance, the additional dwelling would not be evident until a pedestrian has made the 90 degree turn and is walking parallel to the site. At this point the dwelling would be particularly evident and appear somewhat out of keeping with the rest of the houses which are set away from the footpath. Similarly, and irrespective of exactly

where the railings are intended to stop, when approaching from Tivoli Road, the additional house would appear noticeably closer to the footpath than the other dwellings and more apparent above the close boarded fencing.

6. The resulting arrangement would appear inconsistent with the sense of openness which has been created from siting the other new houses away from the public footpath. As such, the proposal would disrupt and run counter to the environment which has been established. Consequently, there would be a small but noticeable diminution of the development's relationship with the public footpath and the emerging sense of place.
7. Given the topography and alignment of the new access road into the site, views of the proposed dwelling from Tivoli Road would be somewhat fleeting. The new dwelling would be evident in certain views and appear as a more substantial structure than the dwelling on the southern side of College Road, which can be seen from Tivoli Road. However, the proposed dwelling would reflect a continuation of the design of the adjoining houses and in this respect would not be an entirely unexpected sight in this context.
8. When seen from College Road the new dwelling would appear as a continuation of the existing terrace. It would have the same appearance and ridge height as the rest of these new houses. The additional dwelling may give the terrace as a whole some small degree of increased prominence within the street scene.
9. However, the immediate context is of terraced properties, including those on Salmestone Rise and Nash Court Gardens, and larger school buildings. I also observed that Nash Court Gardens sits above College Road and thus there is variety in both the heights of buildings and how they sit in relation to one another. As such, the new dwelling would not appear out of keeping with the prevailing context nor would it appear unduly prominent.
10. The development of the wider site for housing has involved several planning permissions which have altered how the appeal site would be utilised in the finished development. Initially it was to have formed part of a vehicle parking and turning area but subsequent layouts incorporated it entirely into an area of green space alongside the eastern end of the public footpath.
11. Plans for this area of green space showed nominal but undefined trees/shrub planting. Subsequent to that, the appellant indicates that the approved landscaping plan shows the appeal site as simply being lawn turf. Beyond the appeal site the landscaping plan identifies tree and shrub planting on the remainder of the green space alongside the footpath. As such, there is nothing before me to indicate that the appeal site was to be subject to additional planting or be used as a play area as part of the approved plans.
12. Therefore, whilst the area forming the appeal site was to remain undeveloped, given that it was to become an area of lawn enclosed by footpaths and a building, its wider ecological or biodiversity contributions would have been limited. Although some of this land is now proposed to be part of the garden of the new dwelling, the net loss of the grassed area does carry some negative weight.
13. Furthermore, whilst there would be a net loss of open space, this was not integral to the design and concept of the development as a whole. Additionally, it would not

have been widely visible from outside of the site and so its contribution to any wider sense of open space provision would have been negligible.

14. The resulting residential scheme as a whole would not appear particularly out of keeping with the grain and character of development in the area between Tivoli Road and College Road. In this respect I am also mindful that I have not been presented with any substantive information to indicate that the development would fall below any local or national standards for such matters as parking provision, internal room sizes, garden space etc. Nor is there any indication that the proposal would cause harm to the living conditions of neighbouring residents. These would have been proxy indicators that might have implied the proposal represents a cramped or congested form of development of the site.
15. As such, drawing the above strands together I do not find the proposal to be an overdevelopment of the site per se. Nor do I find the design and appearance of the dwelling in itself to be harmful, either in views from Tivoli Road or from College Road. However, the loss of the open space through the provision of a new dwelling does bring built form noticeably closer to the public footpath and it is this which will have an adverse effect on the wider character and appearance of the area.
16. Consequently, there would be conflict with the requirements of Policy QD02 of the Thanet Local Plan 2020 (TLP) insofar as it seeks to ensure that developments relate to, and strengthen links to, the surrounding and adjacent areas.

Effect on the SPA and SSSI

17. The site lies within the zone of influence of the SPA and so is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). These areas are easily disturbed by recreational activity from visitors and from people living within the zone of influence. I must therefore carry out an appropriate assessment under the Habitats Regulations in order to assess whether the development is likely to result in any significant adverse effects on the SPA.
18. The Council's Thanet Coast and Sandwich Bay Strategy seeks to mitigate impacts on the SPA through a tariff-based system for new residential development. The appellant has submitted a signed and completed Unilateral Undertaking (UU) which provides the required financial contribution towards access and management measures in accordance with the Council's strategy.
19. I have had regard to the nature of the proposed development and the evidence before me, including the advice from Natural England, in making an appropriate assessment. I am satisfied that the proposed financial contribution towards the identified strategic mitigation measures is sufficient to ensure the development will have no significant adverse effect on the SPA or the SSSI.
20. The Council is content with the submitted UU but has queried the wording of the definition of 'SPA Contribution' used in the UU, as it does not refer to Birdwise East Kent. However, the body to whom the contribution might be paid is not necessarily relevant to the definition of the SPA contribution. Consequently, I am satisfied that the omission of reference to Birdwise East Kent does not invalidate the definition or the UU as a whole.

21. Drawing all of the above together, I am satisfied the UU contribution is necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with paragraph 58 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.
22. Given these circumstances the development would accord with the requirements of Policy SP29 of the TLP, the Framework, and the Habitats Regulations. Collectively, these seek to ensure developments protect sites of local, national and international conservation importance.

Other Matters

23. The Officer Report refers to the Council having achieved only 71% of its 2022 Housing Delivery Test. The Council do not offer an updated position in their appeal statement. The appellant offers no additional analysis or update, merely referencing an appeal from earlier this year in which the evidence indicated the Council was able to demonstrate 75% of its housing delivery target for 2022. Accordingly, there is no dispute between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing land and there is nothing to indicate that the position has significantly changed since the application was refused by the Council. This weighs in favour of the development.
24. The proposal involves some consequential changes to the layout of the site regarding matters such as parking spaces, access to rear gardens etc. These appear to be relatively minor and have not been contentious issues in the appeal. I see no reason to disagree with the main parties in respect of these changes.
25. The appellant's assertion that the development is exempt from Biodiversity Net Gain was queried during the consideration of the planning application, but this matter was not pursued by the Council. I have no substantive information to come to a different conclusion. The loss of the grassed area would represent a small loss of green space and as noted earlier in my decision carries a small amount of negative weight. I have no substantive information to suggest that the proposal would cause harm to wildlife.
26. I understand that artificial grass was previously approved elsewhere within the wider development but will now be laid as natural turf. However, these areas are outside of the appeal site, and I have few details so am unable to assign positive weight to this factor in my decision.
27. There may be some additional natural surveillance of the footpath from the new house, but any benefit is likely to be small given the windows from the existing dwellings already offer views over the footpath. I noted on my site visit that there is a lighting column on the public footpath adjacent to where the new house would be erected. There are also new lighting columns along the new internal access road. As such, the proximity of the dwelling to the footpath is unlikely to make the footpath inherently unsafe during periods of darkness.
28. Interested parties have referred to traffic congestion in the area. However, the Council has not identified this as a reason for refusal. I have no substantive evidence before me which would lead me to a different conclusion from that of the Council.

29. It is also suggested by interested parties that the house would remain unoccupied. However, I have no information which would lead me to that conclusion or allow me to give it weight, particularly given the under supply of housing in the area.

Planning Balance

30. I have concluded that in terms of the character and appearance of the area the proposal would conflict with the requirements of Policy QD02. Whilst there is conflict with the development plan, given my findings on that main issue, I give this conflict modest weight.
31. The housing land supply situation means that Paragraph 11(d)(ii) of the Framework is engaged. The Framework's policies seek to boost the supply of housing. The scheme would provide only a single new dwelling albeit in a location reasonably well served by services and facilities.
32. Furthermore, there would be some associated economic benefits both from the additional construction expenditure but also in the longer term once the house was occupied. There would be some social benefits from the additional dwelling, and future residents would be able to contribute to the vitality of the community. In view of the current housing supply difficulties, when considered collectively, the above represent moderate benefits of the proposal.
33. Conversely, the Framework seeks to ensure developments are sympathetic to local character and that revised schemes do not diminish the quality of any previously permitted schemes. However, I have found the adverse impact associated with the site's effect on the character and appearance of the area to be relatively limited and of modest scale.
34. Consequently, I do not find that the adverse effects significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development, and this indicates that permission should be granted.

Conditions

35. I have had regard to the Council's suggested conditions and the relevant guidance on the imposition of conditions. In addition to the standard time limit, a condition specifying the approved drawings is necessary in the interests of certainty.
36. To ensure the development functions as intended and integrates with the rest of the new houses it is necessary for there to be conditions relating to external materials, landscaping, provision of pedestrian access to the adjacent footpath, vehicle parking and turning areas, tree protection, lighting, cycle storage and drainage.
37. Given the previous use of the site there is a possibility of contamination and so a condition requiring assessment of any risk is reasonable and necessary. There are no trees to be retained within the area of the appeal site and accordingly a condition relating to tree protection would be superfluous.

Conclusion

38. The proposal would not accord with the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal is allowed.

Stewart Glassar

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing number:

Site Location & Block Plan - 23.1908.1.PL01 Rev E

Proposed Site Block Plan - 23.1908.1.PL02 Rev F

Floor Plan - 23.1908.1.PL03 Rev A

Elevations & Sections - 23.1908.1.PL04 Rev A

- 3) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include but not limited to:
 - species, size and location of new trees, shrubs, hedges and grassed areas to be planted;
 - means of enclosure, boundary treatments, and any retaining structures;
 - ecological enhancements to be provided within the site;
 - hard surfacing materials including for the vehicle parking areas, pedestrian access and circulation areas;
 - a scheme of management and maintenance (excluding the domestic garden hereby permitted).

The landscaping works shall be carried out in accordance with the approved details before the dwelling hereby permitted is first occupied or in accordance with an implementation programme agreed in writing with the local planning authority.

If, within a period of 5 years from the date of planting, any tree or shrub (or any tree/shrub planted in replacement for it) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.

- 4) The external surfaces of the dwelling hereby permitted shall be constructed in the materials shown on approved plan 23.1908.1.PL04 Rev A.
- 5) The vehicle parking spaces and turning area as shown on approved plan 23.1908.1.PL02 Rev F shall be fully implemented and completed prior to the first occupation of the dwelling hereby permitted. The parking spaces and turning area shall thereafter be retained for those purposes.
- 6) The cycle parking provision as shown on approved plan 23.1908.1.PL02 Rev F shall be fully implemented and completed prior to the first occupation of the dwelling hereby permitted and shall thereafter be retained.
- 7) The pedestrian access onto the adjacent public footpath as shown on the approved plan 23.1908.1.PL02 Rev F shall be fully implemented and completed prior to the first occupation of the dwelling hereby permitted. The pedestrian access shall thereafter be retained.

- 8) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 9) Details of any drainage systems or infiltration of surface water drainage into the ground shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details.
- 10) Prior to the installation of external lighting, other than in a private garden, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.

****** END OF SCHEDULE ******