
Appeal Decision

Site visit made on 2 December 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 5th December 2025

Appeal Ref: APP/V2255/W/25/3373615

Land Adjacent Matts Hill Farm Industrial Estate, Matts Hill Lane, Hartlip, ME9 7UY

- 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 Mrs E Newstead against the decision of Swale Borough Council.
 - The application reference is 25/501334/FULL.
 - The development proposed is 2No new two bedroom mobile units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development as it appears on the Council's Decision Letter as this provides greater clarity of the nature and scope of the development.
3. The site lies within the Kent Downs National Landscape (the NL) (formerly the Kent Downs Area of Outstanding Natural Beauty). I have, therefore, had special regard to section 85(A1) of the Countryside and Rights of Way Act 2000 (as amended) (the CRWA) and the duty imposed upon me by the Levelling Up and Regeneration Act 2023 (the LURA) to seek to further the purposes of Protected Landscapes.

Main Issues

4. The main issues in this appeal are: -
 - The effect of the proposal on the character and appearance of the site and the surrounding area, having particular regard to the Kent Downs National Landscape;
 - Whether the site is a suitable location for the proposal, having particular regard to local policies for the provision of housing;
 - The effect of the proposal on biodiversity, with particular reference to the Yaugher Woods Ancient Woodland, the Yaugher Woods Local Wildlife Site and the Swale Special Protection Area (SPA) and RAMSAR site, which is a Natura 2000 Designated Protected Site; and: -
 - The effect of the proposal on the availability of the best and most versatile agricultural land.

Reasons

Character and appearance

5. The appeal site lies within the Kent Downs National Landscape (the KDNL) and is a paddock set back a short distance from Matts Hill Lane. It forms part of a larger paddock which is enclosed by hedges and, to the north, a densely wooded area known as Yaugher Woods. Beyond that the M2 runs roughly east to west, with a service station. The site is screened to the south, east and west by hedging and beyond these lie open fields, some used as paddocks, others cultivated for crops. Nearby, to the south-east, lies the Matts Hill Farm Industrial Estate. Otherwise, development in the wider area is sporadic.
6. Notwithstanding the nearby motorway and industrial estate, the area exhibits a degree of peaceful, rural verdancy and spaciousness. These are positive characteristics of the area. The undeveloped nature of the site contributes positively to these overall characteristics.
7. The proposal would introduce two new dwellings of modern, utilitarian design into the paddock, and their use as homes would be accompanied by the introduction of accompanying residential paraphernalia. Whilst the buildings are modest in scale, they would be urbanising features in the landscape, undermining its rural character and appearance. Further, the appearance of the dwellings would, by virtue of their stark, utilitarian design, be out of place in its rural location.
8. The domestic activity of two dwellings would undermine the rural tranquillity of the field.
9. Whilst the hedging fronting Matts Hill Lane provide some screening, the changes would be visible from the road, particularly in winter, when the hedge loses much of its foliage.
10. Thus, the rural spaciousness and peace of the countryside would be eroded by urbanising features and activity, and this would undermine the features contributing positively to the local character and appearance of the locality that I have identified above. In so doing the landscape and scenic quality of the KDNL would be eroded and its natural beauty would neither be conserved nor enhanced by the presence of the dwellings.
11. I therefore find that the proposal would harm the character and appearance of the site and the surrounding area, having particular regard to the Kent Downs National Landscape. It would, therefore, be contrary to the aims of Policies CP4, DM14 and DM24 of the Swale Borough Local Plan (2017) (the Local Plan) in as much as these, together, amongst other things, seek to secure high quality design that conserves and enhances the special qualities and distinctive character of the natural environment, including the KDNL, and further the delivery of the KDNL's Management Plan. The proposal would also fail to satisfy the requirements of the LURA.
12. For similar reasons, the proposal would also conflict with principles SD2, SD3, SD9 and LLC1 of the Kent Downs Area of Outstanding Natural Beauty Management Plan 2021-2026 which, amongst other things, seek to conserve and enhance the local character, qualities, distinctiveness and natural resources of the KDNL.

Location

13. There is no dispute between the parties that, for planning purposes, the site lies in the countryside.
14. Policy ST3 of the Local Plan states that development will not be permitted, unless it is supported by national planning policy and it is demonstrated that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Policy ST1 of the Local Plan requires that development should accord with the Local Plan Settlement Strategy set out in Policy ST3.
15. Policy DM12 provides exceptions for development for rural workers' dwellings. However, the proposal would not be for a rural worker and so there is no support for the proposal from this policy.
16. Policy CP2 of the Local Plan requires new development to be located in accordance with Policies ST1 to ST7 of the Local Plan, Local Plan allocations, approved Neighbourhood Plans and Community Right to Build initiatives, which minimise the need to travel for employment and services and facilitate sustainable transport.
17. It will be seen above that the proposal would harm the intrinsic value, landscape setting, tranquillity and beauty of the countryside.
18. In terms of the location of the development, the nearest built-up areas to the application site that would contain services and facilities capable of catering for all of the day-to-day needs of the future occupiers is Rainham, to the north-west. Other nearby settlements appear to have limited services and facilities, and there is no evidence before me to suggest that they could cater for all of the day-to-day needs of the future occupiers. Roads between the site and nearby settlements are narrow, unlit, lack footways and subject to high traffic speeds. I have no evidence to suggest that there is convenient access to public transport from the site.
19. Given the distances involved, the nature of the intervening roads and the absence of convenient access to public transport, it is unlikely that future occupiers would access goods and services other than by private car and the reliance on such for their transport needs would be almost total.
20. The appellant identifies that, whilst they would occupy one of the units, the other would be occupied by friends. These friends currently live a short distance from the site, within the boundaries of the industrial estate. The appellant correctly identifies that the transport needs and solutions of those persons, in moving such a short distance, would not change significantly. However, they would vacate their existing property and there is no evidence before me to suggest that the residential use of that property would cease. Thus, the nett outcome of the proposal would be the addition of two dwellings to the immediate vicinity, with associated transport demands. This additional demand would be ongoing and harmfully undermine the local policy and the government's aims to promote the move to more sustainable transport.
21. I therefore find that the site is not a suitable location for the proposal, having particular regard to local policies for the provision of housing and would be

contrary to policies ST1, ST3 and CP2 of the Local Plan, which, together, seek, amongst other things, to protect and, where appropriate, enhance the intrinsic value, landscape setting, tranquillity and beauty of the countryside and to locate development where it would have access to more sustainable modes of transport.

Biodiversity

Ancient Woodlands and Local Wildlife sites

22. The application site lies adjacent to the Yaugher Woods Local Wildlife Site and Yaugher Woods Ancient Woodland, which is irreplaceable habitat. The proposal would not encroach into the woods. However, the standing guidance published by Natural England and the Forestry Commission¹ recommends a minimum 15 metre buffer between any development, including gardens, and ancient woodlands. No dimension has been provided to demonstrate that this distance is achieved between the proposed dwellings and the edge of the ancient woodland, or the use of the intervening land.
23. Further, the 15 metre buffer zone is a minimum and a larger buffer zone may be needed to account for any direct or indirect adverse effects associated with the proposal.

Protected Site

24. There is no dispute between the parties that the proposed development is within the Zone of Influence of the Swale SPA and RAMSAR site, which is a Natura 2000 Designated Protected Site (Protected Site).
25. When making their decision, the Habitats Regulations require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of a protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
26. I have not been provided with detailed information on the potential recreational impacts of residential development on the protected habitat to reach an informed judgement. However, I understand that the Council adopted the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS) in consultation with Natural England and that this contains measures to offset recreational impact resulting from such development on the special character and ecological importance of the protected sites which, without mitigation, would be detrimental to their ecological importance. This sets a mitigation tariff which, through application, should allow a conclusion through an Appropriate Assessment that a development will not, either alone or in combination with other development, have any adverse impact on the integrity of the habitats site because of increased recreation usage.
27. The appellant states that they are willing to provide the appropriate contribution through a legal agreement. However, no such agreement is before me.
28. The Planning Practice Guidance (PPG) is clear that positively worded conditions cannot be imposed which require the payment of money. The PPG also advises that a positively worded condition which requires the applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990,

¹ Ancient woodland, ancient trees and veteran trees: advice for making planning decisions (2022)

or an agreement under other powers, is unlikely to pass the test of enforceability. It goes on to advise that negatively worded conditions requiring a planning obligation to be entered into should only be used in exceptional circumstances where there is clear evidence that the delivery of the development would otherwise be at serious risk. There is no clear evidence to suggest that this would be the case in this instance.

29. Whilst the appellant states that the Council have not requested a contribution, that is a matter between the parties, and I have determined this appeal on the basis of the evidence before me and planning policy.
30. It would typically be necessary for me to consult NE to undertake the AA and to assess the effectiveness of any mitigation put forward. However, a consultation with NE would not resolve the matter of an absence of mitigation.

Conclusion on biodiversity

31. I therefore conclude that the proposal would have a significant, harmful effect on biodiversity, with particular reference to the Yaugher Woods Ancient Woodland, the Yaugher Woods Local Wildlife Site and the Protected Site. In regard to the Protected Site this would not be adequately mitigated. It would therefore be contrary to Policies DM28 and DM29 of the Local Plan in as much as these, together, amongst other things, seek to conserve, enhance and extend biodiversity, minimise any adverse impacts and compensate where impacts cannot be mitigated, including safeguarding Protected Sites and irreplaceable habitats from harm, having regard to the application of national policy.

Agricultural land

32. There is no dispute between the parties that the site comprises Grade 3 agricultural land. The quality of the agricultural land has not been specifically identified as being either Grade 3a or 3b.
33. The site is currently used for grazing and stabling horses. The land is open and, nearby land is in arable production. Notwithstanding its historic use for grazing, there is nothing before me to suggest that the site could not be used for crop production in future.
34. The proposed dwellings would have no permanent foundations and are of a relatively lightweight construction. However, the use of the land would change to residential. Whilst it may be possible to revert that use to agricultural, there is no certainty that this would ever materialise.
35. On the basis of the information before me it has not been demonstrated that the site contains no Grade 3a agricultural land. The land, whilst currently not used to grow crops, could, because of the proposal, lose any potential to contribute to food production.
36. The Local Plan seeks, through Policy DM31, to protect the best and most versatile agricultural land unless justified under criteria set out within the policy. The site is not allocated for development by the Local Plan and so fails to satisfy criterion 1 of the policy.
37. Alternatively, development would be supported by DM31 where it has been demonstrated that there is no alternative site on land of a lower grade than 3a or

that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development and the development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.

38. There is no evidence before me to demonstrate that any consideration of available alternative sites has been made. Having regard to the size of the appeal site there is no evidence before me to demonstrate that the loss of local agricultural production would be anything more than limited. Nonetheless, this would still be an ongoing loss, and therefore harmful to the supply of best and most versatile (BMV) agricultural land and this weighs against the proposal.
39. Consequently, I conclude it has not been demonstrated that the proposal would not result in an unacceptable and unjustified loss of BMV. The proposal would, therefore, conflict with Policy DM31 of the Local Plan, the aims of which I have set out above.

Other Considerations

40. There is no dispute between the parties that the Council can only identify a 3.8-year supply of housing land and is, therefore, unable to demonstrate a five-year supply to satisfy the Government's expectations. This amounts to a significant shortfall in the future supply of housing. Two additional dwellings would go a small way towards fulfilling future housing needs.
41. The proposal would provide benefits through employment in the construction industry and supply chain, and the proposal would provide support to services and facilities in the local area. However, given the scale of development these benefits would be limited.
42. The appellant has identified the proposal as providing two self-built dwellings. The Framework supports the development of windfall sites and self-build housing. These considerations therefore weigh in favour of the proposal.

Conclusion

43. I have found harm to a Protected Site and a National Landscape, and these provide strong reasons for refusing the proposal. Under these circumstances, despite the lack of a five year supply of housing land, the presumption set out under paragraph 11d) is not engaged and the presumption in favour of sustainable development does not apply.
44. Although there is considerable support for new housing, including self-build housing, in this location the benefits in terms of the overall position in the Borough would be limited. In this instance the overall benefits would not outweigh the harm I have identified.
45. 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, the appeal is dismissed.

I A Dyer

INSPECTOR