
Appeal Decision

Site visit made on 4 November 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/A2280/W/25/3370019

119 Broadway, Gillingham ME8 6DP

- 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 N Nanda, Toyah Property Ventures Ltd against the decision of Medway Council.
 - The application Ref is MC/24/1794.
 - The development proposed is “proposed erection of a new dwelling”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is one of 2 appeals I am determining on sites very close to each other. The other appeal is at 111 Broadway, reference APP/A2280/W/25/3370016. Each proposal is for a single house and is submitted by the same appellant. There is a separate decision for each appeal and I have considered each on its individual merits.
3. The Council's first reason for refusal solely referenced a loss of trees, although the delegated report and appeal statement each referenced the loss of the green area and the pattern of development. Given the discrepancy in the reason for refusal and the contents of the Council's evidence, the appellant was given the opportunity to provide further comments which I have taken into consideration.
4. On 16 December 2025, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework). Whilst broad changes to the structure of the Framework are proposed as part of this consultation, these proposals could be subject to further change and can only be given very limited weight at this stage. It has therefore not been necessary to consult the parties on the changes, and in reaching my decision, I have had regard to the Framework published in December 2024.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the area; and,
 - the living conditions of future occupiers with particular regard to outdoor amenity space.

Reasons

Character and Appearance

6. The appeal site comprises a grassed area of land adjacent to the dwelling at 119 Broadway. The proposed 2 storey dwelling would be attached to 119 Broadway and would form part of the cul-de-sac.
7. A series of residential cul-de-sacs run from the north-west side of Broadway. Each cul-de-sac is formed of a central pedestrian path with terraced dwellings fronting either side of the path. Garages are contained in a cluster to the rear of the dwellings, with vehicular access from Broadway. A strip of woodland separates the end of the Broadway cul-de-sacs from the Ito Way dual carriageway beyond. The land rises slightly from the vehicular carriageway of Broadway towards the woodland strip, so the trees are highly visible as a backdrop to the residential character of Broadway.
8. Additionally, there is a series of grassed areas to the 2 southernmost cul-de-sacs with a footpath running adjacent and alongside the woodland strip. These border the woodland and provide a linked series of green spaces which support a variety of trees. Although this pattern of development with grassed areas to the end of the cul-de-sacs is not repeated to the north of the appeal site, it nevertheless provides an open, tree lined area which positively contributes to the wooded and verdant character as a backdrop to the densely developed Broadway.
9. The proposed dwelling would result in the loss of 4 Silver Birch trees (T11, T13 and T14 - category C and T12 - category B) and a small Thuja hedge (H16 – category C). I note that the Cherry (T15 – category C) to the front and Box Elder Maple (T10 – category C) to the rear would be retained. Given the modest size of the proposed rear garden and the position of the canopy and root protection area of the retained Silver Birch and the Cherry relative to the proposed house, there is likely to be pressure from future occupiers for significant pruning or removal of the trees.
10. Even though the trees within the appeal site are not protected by a Tree Preservation Order, they nevertheless contribute to the verdant character of the surrounding area. They are visible from the main vehicular route of Broadway, not just from the pedestrian cul-de-sac. The grassed area, whilst not in itself visible from the main street, nevertheless contributes to the more open nature of this part of Broadway, connecting with the other green spaces alongside the woodland strip. The loss of the trees and the grassed area would therefore be harmful to the character and appearance of the area. Whilst I acknowledge that the trees surrounding the appeal site would be retained, I consider this would have a neutral effect upon the character and appearance of the area and is not a matter which weighs in favour of the scheme.
11. By way of mitigation, the appellant proposes additional planting within the appeal site and to provide improved landscaping. Indicative planting is shown in the area next to the Cherry tree. Given this tree would be retained, there would be limited opportunity for significant planting in such proximity to the tree and beneath its canopy. Additionally, the appellant states that they own the area bordering Ito Way which could accommodate additional planting. This area already accommodates mixed woodland, and there is limited evidence before me that there would be the opportunity to enhance this sufficiently to offset the contribution of the green space and trees within the appeal site to the character and appearance of the area.

12. There is little substantive evidence before me that the appeal site has been poorly maintained such that it detracts from the character of the area.
13. I acknowledge the proposed house would align with the height and mass of the other dwellings along this part of Broadway. The proposed materials including the use of brick and casement windows would also match surrounding properties. Nevertheless, this would not overcome the harm identified.
14. In conclusion on this main issue therefore, the proposal would be contrary to Policies BNE1, BNE43 and H4 of the Medway Local Plan 2003. Taken together and amongst other things, they require development to respect the visual amenity of the area, retain trees and other landscape features that provide a valuable contribution to local character, and allow infilling within residential areas providing that a clear improvement in the local environment would result.

Living Conditions of Future Occupiers

15. Medway Housing Standards (interim) November 2011 sets out that houses should have a private garden with a minimum length of 7m, and 10m will normally be expected. The depth of the proposed rear garden would fall short of the 7m minimum.
16. The rear garden configuration would nevertheless provide private, functional amenity space with sufficient space for planting, sitting out and allowing washing to dry. The garden, in my judgement, whilst small, would be comparable to those in the immediate area. Consequently, the proposal would be in line with the aims of Local Plan Policy BNE2 insofar as it seeks to offer residents an appropriate level of amenity, which would include, amongst other things, the provision of outdoor space.
17. In conclusion on this issue therefore, I am satisfied that the proposed garden would be acceptable and in line with the overall aims of Local Plan Policies BNE2 insofar as it seeks to offer residents an appropriate level of amenity. Whilst the Council also refers to Policy H4 in their reason for refusal, I do not consider this is directly determinative. It does not directly relate to the living conditions of future occupiers, concerning matters of principle in terms of the location of new residential development.

Other Matters

18. The Council is satisfied that the proposal would not result in an unacceptable increase in pressure on the availability of on-street parking in the area. I have no compelling evidence before me which would lead me to reach a different conclusion. The Council also indicate that the proposal would be acceptable with regards to room sizes and its effect on the living conditions of neighbouring occupiers. These matters weigh neither for nor against the scheme in the planning balance.
19. I note the appeal site is within the zone of influence of the North Kent Marshes Special Protection Area and Ramsar site. As I am dismissing the appeal, I shall not pursue this matter further because it would not lead me to a different conclusion.

Planning Balance

20. Set against the harm identified, the proposal would deliver a single new dwelling which would provide a good standard of accommodation. It would support the Government's aim of significantly boosting the supply of homes. However, the addition of a single home would provide a limited contribution in this context and I attach limited weight to this benefit. There would also be some modest economic

benefit arising from construction employment and subsequently from new residents using local services. Whilst potential benefits could be secured by condition including a landscaping scheme and ecological enhancements, I attach limited weight to this as it would primarily form mitigation for the loss of trees. The proposal would also be subject to the statutory Biodiversity Net Gain condition, which would provide a moderate benefit.

21. The Council's 2023 Housing Delivery Test result stands at 72%, indicating that the delivery of housing was substantially below the requirement over the previous three years. In these circumstances paragraph 11d)ii of the Framework is applicable. Footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
22. As described above, the benefits associated with the additional dwelling would be relatively limited even taking into account the Framework's objective of boosting significantly the supply of housing, and the Council's housing land supply position. The Framework states that planning policies and decisions should ensure that developments function well and add to the overall quality of the area, and are sympathetic to local character and history, including the surrounding built environment and landscape setting.
23. The harm I have identified to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. 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 should be dismissed.

L Francis

INSPECTOR