



Appeal Decision

Site visit made on 11 February 2026

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2026

Appeal Ref: APP/E2205/W/25/3375864

Land South of 38 Gordon Close, Ashford TN24 8RQ

- 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 Kacar Property Ltd against the decision of Ashford Borough Council.
 - The application Ref is PA/2025/0128.
 - The development proposed is erection of one detached dwelling and new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has presented a revised site layout as part of their appeal submission. This does evolve the scheme and has several effects including changing the relationship with the neighbouring dwelling. As the neighbour has not been consulted on these changes their interests are likely to be prejudiced if I were to take the revised drawings into account. Accordingly, I have dealt with the appeal on the basis of the scheme on which the Council made its decision.

Main Issues

3. The main issues are the effect of the proposed development on (a) the character and appearance of the area; (b) the living conditions of future occupants and existing neighbours; and (c) the protected Stodmarsh Lakes.

Reasons

Character and Appearance

4. The appeal site is a grassed area located within a residential estate, with allotments and playing fields to the rear. Houses are generally two storeys in height and there is broad consistency in plots being reasonably sized which in turn enables houses to be set back into them. Although properties are generally semi-detached or linked, there are clear visual breaks and gaps between buildings. All of this, together with limited built form close to site frontages or near to street corners and junctions gives the area an open and spacious character to which the appeal site positively contributes.
5. Despite the prevailing built form being semi-detached and linked houses, a two-storey detached dwelling would not, in and of itself, be out of keeping with the overall character of the area. Similarly, the choice of external materials could be conditioned to reflect the prevailing aesthetic.

6. However, given the size and shape of the plot and scale of the proposed dwelling, the building would be positioned noticeably close to the sides of the site, especially when compared to neighbouring arrangements. The relatively short rear garden would add to the sense of the dwelling having been squeezed onto the site.
7. When coupled with the loss of an area of open space which forms an important element in the spacious character of the area, the result would be a jarring visual arrangement. Even allowing for the curve of the road at this point and the relationship with the buildings to the south, the proposal would be at odds with the wider pattern of development and as a whole would run counter to the established spacious street scene.
8. Overall, the proposal would be harmful to the character and appearance of the area. Consequently, it would be contrary to Policies SP1, SP6 and HOU3a of the Ashford Local Plan 2030 (ALP) which, amongst other things, require the layout of new housing developments to be compatible with the character of the area and offer a positive response to the sense of place and legibility of the area.

Living Conditions

Future Residents

9. Policy HOUS15 of the ALP seeks to ensure that gardens for new dwellings have a depth of 10m. The policy allows for flexibility, provided the area is usable private space which contributes to the character of the area.
10. The rear garden for the proposed dwelling measures between 3.5m and 6.4m in depth. However, the deepest part of the garden would be occupied by cycle and bin stores, with doors that open out into the garden. A narrow patio area is shown to the rear of the dwelling, with the remainder of the garden shown as lawn.
11. Given that this is a four bedroom/eight-person dwelling, it could reasonably be expected to accommodate a sizeable number of people. The amount of available space would not be particularly large. Whilst it might allow for a table and some chairs, this would leave little space for other activities such as to play or hang out washing. I am mindful that there is no outside storage other than for cycles and bins and so any garden paraphernalia would in reality have to be permanently in the rear garden rather than tidied away.
12. The size and shape of the garden also means that large parts of it would at certain times of the year be enclosed and overshadowed by fencing and the dwelling. This would further reduce its attractiveness and usability.
13. The dwelling itself would exceed the internal size requirements of the Nationally Described Space Standards. However, these represent a minimum rather than a target. Even though this may make the dwelling's internal arrangements more attractive, it does not compensate for the lack of suitable outside space.
14. Similarly, there may be public open space close by but that does not provide private space for future occupants of the dwelling. Moreover, it does not directly compensate for the absence of a usable garden space, which is a requirement of the development plan.
15. Neighbouring dwellings may have gardens which are not 10m in length, but they appear to pre-date the current development plan policies on this issue. I am also

mindful that the National Planning Policy Framework (the Framework) seeks to ensure that a high standard of amenity is provided for all users and this seems to be a more appropriate aspiration than seeking to replicate developments which are below current requirements.

Existing Neighbours

16. The position and orientation of the existing building means that at certain points in the year, No.38 Gordon Close and its boundary fencing will already cast a shadow across its own rear garden in the afternoon.
17. The rear elevation of the proposed dwelling would be set slightly beyond the rear elevation of No. 38 and to its south. As such, at certain times of the day, the new dwelling would contribute to the overshadowing of this neighbouring garden. Given the limited depth of the neighbour's garden, additional overshadowing is likely to have a noticeable effect.
18. A solar study has not been prepared for the appeal scheme I am considering, only the amended version. As such, I cannot be entirely certain as to the extent of the overshadowing that might occur.

Findings

19. The proposal would cause harm to the living conditions of future occupiers of the proposed dwelling through a lack of usable private garden space. Furthermore, the proposal has not demonstrated that any impact on the living conditions of existing residents through overshadowing would be acceptable. Consequently, the proposal would not comply with Policies SP1, SP6, HOU3a and HOU15 of the ALP which collectively, and amongst other things, require developments to be of a quality and layout that ensures a high standard of living conditions and that existing residents' amenity is not harmed.

Stodmarsh Lakes

20. The Stodmarsh Lakes are designated a Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC), and a Site of Special Scientific Interest (SSSI). Parts are also designated a National Nature Reserve (NNR).
21. Due to unfavourable nutrient conditions, housing developments within the River Stour catchment and/or which discharge to particular Waste Water Treatment Works within the catchment, need to demonstrate nutrient neutrality. The proposal is accompanied by a Nutrient Neutrality Assessment which indicates that the proposal could achieve appropriate mitigation through a developer credit scheme operated by Stour Environmental Credits Ltd.
22. The appellant indicates that they have sourced nutrient credits, but I am not aware that they can actually be purchased until mitigation is assessed and legally secured. I have no details before me to confirm the mitigation has been secured. Indeed, the appellant's appeal statement states a willingness to enter into an agreement or adhere to conditions, suggesting that the credits have not been secured against this particular proposal.
23. It is suggested that a planning condition would be sufficient but, as the Planning Practice Guidance makes clear, 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 or an agreement under other powers, is unlikely to pass the test of enforceability. Furthermore, a pre-commencement condition would not secure the mitigation at the point of decision, which is what the Habitats Regulations require me to consider.

24. Whilst I do not doubt the appellant's willingness to purchase the credits, at this stage, given what has been presented to me, I could not be confident that it offers the required level of certainty that the mitigation is secure at the point of decision. Consequently, planning permission could only be granted in this case if there are reasons of overriding public interest and that suitable compensatory measures are secured. As this case does not reach that high bar, permission cannot be granted.
25. Accordingly, I find that the proposed development could result in harm to the integrity of the Stodmarsh Lakes and would conflict with both the Habitats Regulations, and Policy ENV1 of the ALP. This requires, amongst other things, that developments adequately mitigate the effects of a development on important internationally protected sites.
26. The development would also conflict with the Framework which requires development to protect and enhance the natural environment and sites of biodiversity value, improve biodiversity, and that where significant harm to biodiversity cannot be adequately mitigated, permission should be refused.
27. Even if, in the future, the appropriate credits could be secured in relation to nutrient neutrality this is a theoretical lack of harm, not a benefit. The removal of this constraint would not overcome the other harms I have identified and so does not automatically make the development acceptable.

Other Matters

28. The proposal would be able to provide the necessary Biodiversity Net Gain (BNG) for the development. Although this is a statutory requirement, it attracts a small amount of positive weight.
29. I have not had further regard in this decision to concerns over how the Council handled the application as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Planning Balance

30. There is no dispute between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing land. This weighs in favour of the proposal. Accordingly, Paragraph 11 of the Framework is engaged.
31. The proposed dwelling is in a sustainable location and would make a contribution towards local housing supply, which are key objectives of the Framework. There would also be some economic benefits including those created during construction and subsequently upon occupation of the dwelling. There would also be BNG benefits. The benefits would collectively be proportionate to the size of the development and so in overall terms the benefits would be modest.
32. Conversely, I have found that the proposal would cause harm to the character and appearance of the area and cause harm to living conditions. These would be long lasting harms and the need to avoid them is perennial and in direct compliance

with the Framework. This all weighs significantly against the proposed development.

33. However, Footnote 7 to Paragraph 11 indicates that the application of policies in the Framework that protect an area of particular importance (in this case the Stodmarsh Lakes) provide a strong reason for refusing the proposal. Accordingly, under Paragraph 11(d)(i) of the Framework, planning permission should be refused and, therefore, it is not necessary for me to consider or weigh the identified harms, including those conflicts with the development plan, against any of the other identified issues or proclaimed benefits of the proposal.

Conclusion

34. The proposal conflicts with relevant policies of the development plan. There are no other material considerations, including the Framework, to indicate that the decision should be made other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above, the proposal is unacceptable and so the appeal should be dismissed.

Stewart Glassar

INSPECTOR