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# Appeal Decision

Hearing held on 21 November 2023

Site visit made on 21 November 2023

**by Luke Simpson BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 May 2024**

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## **Appeal Ref: APP/U2235/W/23/3316703**

### **Land south of Ashford Road, Harrietsham, Maidstone ME17 1WH**

- 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 Wealden Land Ltd against the decision of Maidstone Borough Council.
  - The application Ref 21/506821/FULL, dated 16 December 2021, was refused by notice dated 31 August 2022.
  - The development proposed is Residential development comprising 58 new dwellings (to include 24 affordable) with associated parking (including electric charging points), cycle storage, landscaping, refuse & recycling facilities, and children's play area.
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## **Decision**

1. The appeal is dismissed.

## **Preliminary Matters**

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Both main parties have made representations with regard to the Framework and I have taken these into account in considering this appeal.
3. The Maidstone Borough Local Plan Review<sup>1</sup> (LPR) was formally adopted by the Council on 20 March 2024. LPR Appendix 4 sets out the effect of the adoption of the LPR on the policies contained within the Local Plan<sup>2</sup> (LP, 2017), in terms of whether they were 'deleted', 'updated' or 'retained'. With regard to the policies referred to in the Council's reasons for refusal, LP Policies SS1, SP17, DM1, DM3, DM8 and DM30 have been replaced by LPR Policies LPRSS1, LPRSP9, LPRSP15, LPRSP14, LPRQD2 and LPRQD4 respectively. Also of direct relevance is LPR Policy LPRSA101 which allocates the appeal site for residential development.
4. In addition, the Council has referred to various other policies<sup>3</sup> which it considers relevant to this appeal. This is addressed under 'other matters'.
5. Both main parties were provided with an opportunity to make representations in relation to the adoption of the LPR and I have taken these into account in reaching my conclusions.

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<sup>1</sup> Maidstone Borough Council Local Plan Review 2021-2038 Adopted 20 March 2024

<sup>2</sup> Maidstone Borough Local Plan (2017)

<sup>3</sup> where no equivalent was cited in the reasons for refusal.

## **Main Issues**

6. There are three reasons for refusal on the Council's decision notice. The first relates to the principle of development and the second and third both relate to the character and appearance of the area. As such, the main issues are:
  - Whether the site is suitable for the proposed development with regard to the Council's strategy for the location of residential development.
  - The effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Location*

7. LPR Policy LPRSA101 allocates the appeal site for residential development, comprising 'approximately 53 dwellings'. It includes various criteria but these are relevant to other matters such as design and landscaping. The proposed development is for 58 dwellings. I consider that this number of dwellings is within the range allowed by the term 'approximately'. As such, in principle, Policy LPRSA101 is supportive of the quantum of residential development proposed on the appeal site.
8. Policy LPRSS1 sets out the spatial strategy for development in the Borough over the period 2021-2038. It refers to the role of allocations in providing for a minimum of 19,669 new dwellings over the plan period. Given that I have found that the principle of development accords with Policy LPRSA101, there would not be any conflict with the spatial strategy set out under Policy LPRSS1.
9. LPR Policy LPRSP9 relates to development in the countryside. However, the LPR Policies Map (Map 22) shows that the appeal site is wholly within the defined settlement boundary of Harrietsham. LPRSP9 outlines that the 'countryside' is defined as all those parts of the plan area outside the settlement boundaries. As such, Policy LPRSP9 is not applicable to the proposed development.
10. In summary, the location of the proposed development is acceptable in principle and it would not conflict with the Council's strategy for the location of residential development.

### *Character and appearance*

11. The appeal site comprises a vacant field, with the southern segment of the site situated on a slight plateau above the northern segment. Whilst within the settlement boundary of Harrietsham, the site is on the edge of the settlement. There is a relatively recently constructed development directly to the west, known as Bluebell Walk.
12. At present, on approaching Harrietsham from the east along the A20, there is a soft transition between the countryside and the settlement. The main exception to this is the three-storey apartment building at Bluebell Walk. Notwithstanding this building, the prevailing character typically comprises spaciouly positioned two-storey dwellings. Some of these front the A20 but others are set back from the highway. Building materials are varied.
13. The appeal site is located within the Wealden Greensand National Character Area (NCA). One of the key characteristics of the NCA is the proliferation of

small and medium fields in irregular patterns, bounded by hedgerows and shaws. Indeed, the Maidstone Landscape Character Assessment, prepared by Jacobs, refers to the mosaic field pattern and hedgerow boundaries within the Harrietsham to Lenham Vale area.

14. The site comprises of irregularly shaped fields which are bisected by mature vegetation and is bound by mature trees and hedgerows. In this sense it is compatible with the aforementioned landscape character descriptions. However, the appeal site represents only a small component of the wider landscape character and the fact that this character would be altered is not in itself a reason to refuse planning permission. Indeed, there would inevitably be a significant change in character as a result of any development of a quantum similar to that specified under LPR allocation LPRSA101. Furthermore, given the sites proximity to the settlement and its relatively small size (in relation to the wider landscape), there would not be any significant harm to the wider landscape. For these reasons there would not be a conflict with LPR Policy LPRSP14(A) insofar as it refers to landscape character.
15. Despite my findings with regard to landscape character, the central road which would link the northern and southern portions of the site would be an overly dominant element of the proposal and the gap between the southern and northern parcels would result in a discordant layout, resulting in two relatively distinct and separate areas of housing.
16. It is evident that this design is the result of the site's topography, which slopes upwards relatively steeply from north to south. Even so, the scheme would fail to deliver high-quality design given the segregation of the two portions of the site, with the proposed pond presenting an additional physical barrier to a coherent layout.
17. Whilst the incorporation of a wide range of house types in the design is laudable, they would be laid out in a disjointed manner, creating pockets of development, with little visual coherence when travelling through the development. Indeed, this would be contrary to the guidance contained within the Building for Life (2018) Supplementary Planning Document (SPD), which recommends that developments include a network of well-defined streets and spaces with clear routes. For these reasons, despite the appellant's assertions, the development does not reflect the more coherent layout of the Bluebell Walk development.
18. In addition, the apartment building proposed in the north-eastern corner of the site would completely dominate views for those entering the development and it would also fail to provide a gradual transition between the rural character to the east and the settlement to the west. The appellant cites the similarly proportioned apartment building located at Bluebell Walk. However, this too fails to allow for a gradual transition between the countryside and the settlement. Indeed, its presence does not in any way justify a similar scale, design and type of building in such a prominent location.
19. Whilst a planning condition could be used to alter the design and appearance of the apartment building, including the design of the roof, it is the scale and bulk which would be unacceptable, even when taking account of the fact that it would sit at a lower level than the highway.

20. I note that the appellant has provided visualisations which indicate a limited impact from existing public vantage points. Nonetheless, the overall visual harm caused would be visible from the adjacent footway along the A20, across the proposed access, from neighbouring dwellings to the east and most importantly, from shared spaces within the development itself.
21. The proposed removal of certain trees would not result in any harm given the prospect of their replacement and increased planting. In particular, the evidence demonstrates that Plot 21 is sufficiently distanced from the canopy and root protection area of T7 (Corsican Pine) that there would not be any adverse impact on it. Indeed, I note that there is no substantive evidence to rebut the appellant's specialist arboricultural findings.
22. There would be a limited punctuation of the skyline on the southern segment of the site, when viewed from the north. However, the fact that development would be visible at a higher level than currently prevails in the settlement would not result in harm. This is primarily due to the mitigation which would result from proposed and existing planting and the limited scale of development proposed on the southern segment of the site. Furthermore, there are at least some mature trees on the southern boundary in the appellant's ownership and these provide a backdrop which limits the visual impact in longer range views.
23. The Council has raised concerns that additional lighting would be detrimental to 'rural character and appearance'. However, there is no substantive evidence to support this assertion and there is no reason why an appropriate lighting scheme could not be produced (and controlled by planning condition). As such, there would not be a conflict with LPR Policy LPRQD2, which relates to external lighting.
24. The Council has referred to the materials proposed but there is quite a wide variation in the locality and the precise details could be controlled by condition in any case.
25. The development would result in a reduction in the gap between Harrietsham and Lenham. However, a significant gap would remain. Furthermore, it is almost certain that any development of this site will lead to a reduction in this gap. In any case, this is certainly not an aspect of the proposal which results in harm.
26. The Council has raised concerns that the proposal is not integrated with Bluebell Walk. However, it would visually merge with this neighbouring development when viewed from the east and it is physically connected by the existing footway on Ashford Road.
27. Whilst I have found in favour of the appellant with regard to many of the issues raised by the Council, overall, the proposed development would result in significant harm to the character and appearance of the area. This would result from the cumulative harm arising from the discordant layout, the dominance of the central road and the bulk and scale of the proposed apartment building. The latter is the most important factor and it would harm the gradual transition between the countryside and the settlement. For these reasons, the proposed development would conflict with LPR Policy LPRSP15 which seeks to ensure that new development is of a high-quality design.

28. There would also be a conflict with LPR Policy LPRSA101 (part 2) insofar as the development would not be a high standard of design for reasons already given. However, with regard to the other specific requirements of this policy, I have not identified any additional conflicts for the reasons set out above.
29. For the same reasons, the proposed development would also conflict with Framework Paragraph 135, which states in part that decisions should ensure that new development functions well and adds to the overall quality of the area.
30. LPR Policy LPRQD4 is not relevant as it only applies to development outside the settlement boundaries.

### **Other Matters**

#### *Other appeal decisions*

31. The appellant has referred to various appeal decisions, however, the case-specific circumstances all differ, and the planning policy context has recently changed, with the adoption of the LPR. For these reasons, the findings reached by the Inspectors in those cases do not alter my conclusions in relation to this appeal.
32. In particular, with regard to housing land supply, the appellant referred to an appeal relating to residential development proposed at a site at Firwood Lodge, Ashford Road (APP/U2235/W/22/3305441). This neighbouring appeal was undetermined at the time that the appellant produced their Statement of Case. However, the appeal was dismissed on 10 March 2023 and the Inspector concluded that the Council could demonstrate a five-year housing land supply.

#### *Other LPR Policy Requirements*

33. The Council has referred to various other policy requirements arising from the adoption of the LPR. These matters include but are not limited to renewable energy, water consumption, accessible buildings, open space and private outdoor space. However, given that I am dismissing this appeal for other reasons it is not necessary to consider these matters further.

#### *Kent Downs National Landscape (Formerly AONB)*

34. In determining this appeal, I have had regard to the duty under section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) (the CRW Act). This requires that relevant authorities have regard to the purpose of conserving and enhancing the natural beauty of a National Landscapes. Furthermore, Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes.
35. In relation to 'setting', Section 3.3 of the Kent Downs AONB Management Plan 2021-2026 states in part that the weight to be afforded to setting issues will depend on the significance of the impact. It also states that matters such as the size of proposals, their distance, incompatibility with their surroundings, movement, reflectivity and colour are likely to affect impact.
36. LVIA VP2 indicates that the proposed development would be partially visible from within the National Landscape. Indeed, during my site visit I could see the appeal site, albeit not particularly clearly, from this viewpoint. Nonetheless, the appeal site if developed would easily assimilate into the existing settlement and

surrounding trees to the extent that there would be no detrimental impact on the landscape and scenic beauty of the National Landscape. Indeed, the only attainable views from within the National Landscape are glimpsed views and they are over such a long distance that they would not result in any harm.

37. For these reasons there would be no harmful effect on any of the special components of the AONB set out in the Management Plan (pages 5-7). As a result, there would not be any conflict with development plan or Framework policies pertaining to national landscapes.

#### *Interested Parties*

38. Various interested parties made representations through the appeal process, including (but not limited to) neighbouring residents and Harrietsham Parish Council. Some of these representations raised issues beyond those which I have addressed in this appeal decision. Nonetheless, given that I am dismissing this appeal it is not necessary to consider these matters further.

#### **Planning Obligations**

39. The appellant has submitted a legal agreement under section 106 of the Town and Country Planning Act 1990, which includes various obligations which would come into effect if planning permission were to be granted. These include obligations in relation to affordable housing and off-site biodiversity enhancement. However, given that I am dismissing the appeal, it is not necessary to consider whether the planning obligations meet the tests set out under Regulation 122(2). Notwithstanding this, for the purposes of considering the benefits associated with the proposed development, I have assumed that the contributions and obligations in the s106 and UU would be made. This represents a best-case scenario for the appellant in terms of applying the planning balance.

#### **Planning Balance**

40. The Council has a HLS supply in excess of 5 years and there is no substantive evidence to the contrary.
41. I have already identified the harm which would arise as a result of the proposed development. Namely, the harm which would be caused to the character and appearance of the area. I attribute substantial weight to this harm given the sensitive edge-of-settlement location and the likely enduring nature of the harm.
42. The Council has indicated that there are currently two outstanding legal challenges to the LPR. However, I have no evidence before me to indicate that they relate to the appeal site, the draft allocation or any of the relevant development plan policies. Indeed, I must determine this appeal on the basis of the evidence before me. I therefore attribute full weight to the conflict with the policies contained within the LPR.

#### *Benefits*

43. The proposed development includes both market and affordable housing<sup>4</sup> and there would be significant social and economic benefits associated with this provision, particularly given the emphasis contained in the Framework on

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<sup>4</sup> In accordance with the requirements of LPRSP10(B)

boosting the supply of housing and meeting affordable housing needs. There would also be a good mix of house types. In particular, bungalows would provide accommodation suitable for older adults.

44. In addition, there would be other social and economic benefits resulting from the increase in the local population and the associated support for local services and facilities. There would also be temporary benefits resulting from support for construction jobs. Neighbouring residents would also benefit from open space provision. Nonetheless, these are not the main benefits of the scheme.
45. A net gain in biodiversity could also be achieved through the utilisation of off-site land. Notwithstanding the lack of detail provided, if it is assumed that the development could achieve a 20% net gain<sup>5</sup> then this would also represent a benefit of the proposed development.
46. Together, the benefits associated with the proposed development can be afforded significant weight.

#### *Balance*

47. The benefits associated with the proposed development are significant and relatively wide-ranging. However, they are not so great that they would outweigh the substantial harm which would be caused by the proposed development to the character and appearance of the area. Indeed, the benefits would not outweigh the conflict with the recently adopted LPR Policies, to which I attribute full weight.

#### **Conclusion**

48. Whilst I have concluded that the principle of development would be acceptable, the proposal would be harmful to the character and appearance of the area. As such, the proposed development conflicts with the development plan taken as a whole. There are no material considerations of sufficient weight which indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

*Luke Simpson*

INSPECTOR

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<sup>5</sup> In accordance with the percentage outlined under LPR Policy LPRSP14(A)

## **APPEARANCES**

### **FOR THE APPELLANT:**

Barry Chamberlain                      Wealden Land Ltd (Appellant)

Joe Alderman MA MRTPI              Robinson Escott Planning

John Escott BA (HONS)  
DipT MRTPI                              Robinson Escott Planning

Lydia Hill-Wood BA  
(HONS) PGDip (HONS)  
CMLI2                                      Hill-Wood & Co

Karl Elliot BA (HONS)  
MCIAT                                      Clague Architects

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mario Geary MA Dip TP  
MRTPI                                      Maidstone Borough Council

Jaquelin Clay BSc MSc  
CMLI FAE                                  JFA Environmental Planning

### **INTERESTED PARTIES**

Christopher Roots                      Neighbouring resident

Eddie Powell                              Chairman of Harrietsham Parish Council