



Appeal Decision

Site visit made on 15 August 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/U2235/W/23/3315823

Glenrowan House, Roundwell, Bearsted, Maidstone ME14 4HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Emma Homewood against the decision of Maidstone Borough Council.
 - The application Ref 21/506239/OUT, dated 29 November 2021, was refused by notice dated 1 August 2022.
 - The development proposed is an outline application for the erection of 2no. residential units with all matters reserved for future consideration aside from access.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for the erection of 2no. residential units with all matters reserved for future consideration aside from access at Glenrowan House, Roundwell, Bearsted, Maidstone ME14 4HL in accordance with the terms of the application, Ref 21/506239/OUT, dated 29 November 2021, and the conditions in the attached schedule.

Preliminary Matters

2. The application has been made in outline with access for consideration at this stage. Matters of appearance, landscaping, layout and scale have been reserved for consideration at the reserved matters stage. Plans showing the possible layout of the proposed two dwellings have been included in the submissions and I have treated them as indicative as to what the appellant has in mind for the development.

Main Issues

3. The main issues are:
 - whether or not the development plan would support the proposed residential development in this location, and
 - the effect of the development on the character and appearance of the area, having regard to the location in relation to the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Location

4. Policy SS1 of the Maidstone Borough Local Plan 2017 (the Local Plan) establishes the spatial strategy and settlement hierarchy for the delivery of development across the plan area. The principal focus is to be an expanded Maidstone urban area, then Rural Service Centres and then the identified

- Larger Villages. Beyond those areas the land is designated as countryside and the Local Plan explains that it is important that the quality and character of the countryside outside of settlements in the hierarchy is protected and enhanced.
5. Policy SP17 of the Local Plan concerns development within the countryside and that the countryside is defined as all those parts of the plan area outside the settlement boundaries, in this case, of the Maidstone urban area. Criterion 1 of the policy is that development proposals in the countryside will not be permitted unless they accord with other policies in the plan, and they will not result in harm to the character and appearance of the area.
 6. In this case, the appeal site is an irregularly shaped section of garden land at Glenrowan House. It lies to the broadly south west of this residential building and would be accessed from the unmade driveway that serves Glenrowan House and the other residential properties at the end of this cul-de-sac.
 7. The west and south west boundaries of the appeal site adjoin the Barty Farm new housing estate. This is a fairly sizeable residential development on a site that was previously open farm land but was identified as a housing allocation in the Local Plan. This development appears to have been completed. The housing allocation extended the urban settlement boundary of Maidstone up to the western and south western boundaries of the appeal site.
 8. The appeal site is contiguous with, but outside, the settlement boundary of Maidstone. Consequently, in planning terms, the appeal site is located within the countryside. The scheme for two open market dwellings would not meet with any of the allowances for development in the countryside within the Local Plan.
 9. In the light of the above analysis, I conclude that, with the location of the appeal site outside the settlement boundary, the development plan would not support the proposed residential development in this location. The scheme would conflict, in this respect, with Policies SS1 and SP17 of the Local Plan which set the settlement strategy and approach for the distribution of development across the plan area.

Character and appearance

10. While once Glenrowan House and the nearby farm house and other buildings, including dwellings, were somewhat separated from the edge of Maidstone, the Barty Farm housing development has brought the settlement edge up close. The new development has created a clearly defined built edge along its south east boundary with the drive to Glenrowan House and along the north east edge with the adjoining open countryside.
11. The housing allocation, and now the edge of the settlement, followed the previous field boundaries. However, the appeal site was not included as this was outside this field area and this has resulted in an irregular boundary line to the settlement adjoining the garden to Glenrowan House.
12. Within the appeal site, and adjoining the drive, there is an informal line of reasonably mature and established trees. These trees largely screen the appeal site when viewed from the open countryside to the very broadly east. When I walked the public right of way across the adjoining field, a section of the housing at Barty Farm is quite apparent. However, the effect of the trees largely screen the appeal site from this location. From this open land to the

very broadly east of the site, the drive provides an effective division within the landscape such that the appeal site, because of the informal line of trees and the adjoining new housing, appears to be visually separated from this part of the open countryside.

13. When viewed from within the appeal site, the trees along the eastern section of the site effectively screen views of the open countryside to the broadly east. The new housing immediately adjoins the site to the largely west and the sizeable Glenrowan House bounds part of the north east part of the appeal site. This provides a built context within this space. Furthermore, from within the site there are bushes and some trees that extend across the gap between the new housing and Glenrowan House that largely obscures views when looking towards the countryside to the broadly north. The result is that the appeal site is quite self-contained with it positioned between the built form of the Barty Farm estate and Glenrowan House. With the screening provided by the trees along the boundary with the drive, the appeal site does not visually or functionally link with the open countryside, and it has a much greater affinity with the adjoining built development.
14. In terms of the proposed development, some modest sized trees would be removed to accommodate the likely position of the dwellings. However, the most important trees would remain and, in all likelihood, with a sensitively designed development the proposed dwellings would be substantially screened from the locations beyond the wider site, even when the leaves were off the trees. The indicative plans show that it should be possible to accommodate two dwellings with acceptable spacing around them to retain trees and also provide amenity spaces for the future occupants. The Council's Landscape Officer/Arboriculturist, after receiving an updated Arboricultural Report, did not object to the scheme in relation to its effect on trees.
15. Car parking and the related domestic paraphernalia, which would commonly result from a residential use, should be able to be adequately screened within the site because of the extent of boundary planting. With an appropriate design and layout at the reserved matters stage, the provision of two dwellings on the site should not cause any undue harm to the adjoining rural surroundings and the development would merge visually with the existing built form.
16. The AONB boundary lies about 500m to the north east. The National Planning Policy Framework (the Framework) requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. Furthermore, the Framework explains that the development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on AONBs.
17. The Council's Landscape Character Assessment identifies the general area which the appeal site falls as within the Leeds Castle Parklands (Caring Pastures) Landscape Character Area (LCA); and that this LCA is a highly sensitive location that is indicated to provide the setting to the Kent Downs AONB.
18. In the broad direction of the AONB, in the intervening countryside, there is the railway line which is bound by a line of mature trees, and which provides to a large extent a visual barrier that prevents longer distance views to and from the AONB from the appeal site. Coupled with the vegetation around the appeal

site and the screening effect of Glenrowan House, and with the surroundings of the adjoining Barty Farm development, the appeal development with suitably designed dwellings, would have no discernible effect or harmful impact on the special qualities of the AONB.

19. I appreciate that setting is more than simply a direct visual relationship. However, in this case, the additional two dwellings on the appeal site would be experienced in the context of the existing and quite sizeable Barty Farm development which is fairly apparent in the wider landscape and where this housing is visible from the countryside to the north, in the direction of the AONB. With the contained nature of the appeal site, the character of the landscape and the surroundings in which the AONB is appreciated and experienced would not be adversely affected by the addition of two appropriately designed dwellings on this site.
20. To conclude on this issue, with a suitable scheme at the reserved matters stage, I am satisfied that the development would not harm the setting to the AONB and would not adversely affect its landscape and scenic beauty.
21. Additionally, the appellant has drawn my attention to the assessment of the wider area which formed part of the Local Plan considerations for the allocation of the Barty Farm development site. It is explained that within the 2016 SHEDLAA¹ it states that the area is "screened from the AONB by the Maidstone East railway line and is screened from the south and west by a mixture of topography and existing development". It was on this basis that the Council, and I assume the Local Plan Inspector, recognised that this site was acceptable for the allocation of residential development. Given this assessment and the resulting development, which provide the context for this appeal proposal, I am satisfied that the scheme, with appropriate details at the reserved matters stage, would not have an adverse effect on the setting of the AONB or the intrinsic character and beauty of the countryside, including this part of the LCA.
22. The Council draw attention to the appeal decision at Hockers Lane². That was a housing proposal further from the AONB boundary than the present scheme and the Hockers Lane scheme was dismissed because of the harm to the setting of the AONB. There are some similarities in principle with the present proposal, with it being a housing scheme outside the settlement and where the AONB setting was an issue. However, while I have carefully considered all the evidence, including that from the Council and Parish Council on this matter, each site will have its own landscape, topographical situation and relationship to adjoining countryside and the AONB. While I have taken into account the Hockers Lane appeal decision, I am satisfied that this situation is different, particularly because of the effect of the adjoining and recently agreed housing scheme. That development exerts an influence on the character of the area, and was found acceptable in relation to the AONB. I have found in this case, that the appeal site would be largely screened and would not be harmful in its setting and general surroundings. I therefore attribute the Hockers Lane appeal limited weight in my assessment of the effects of the present scheme on the area.

¹ Strategic Housing and Economic Development Land Availability Assessment.

² Appeal Ref APP/U2235/W/21/3266433 – 127 Hockers Lane, Thurnham, Maidstone ME14 5JY – dismissed 1 November 2021.

23. Drawing these matters together, I conclude that the scheme, with suitable details at the reserved matters stage, would not harm the character and appearance of the area and, in particular, would not adversely affect the setting to or the landscape and scenic beauty of the AONB. In these respects, the scheme would comply with the requirements of Policies SP17, DM1 and DM30 of the Local Plan and the Framework which seeks, amongst other things, that proposals should not have a significant adverse impact on the setting of the Kent Downs AONB.

Other Matters

24. I have carefully considered all the representations and objections to the scheme made at the application and appeal stages, including those from local residents, Councillors and Thurnham Parish Council. I have examined the main issues raised in respect of the policy situation and the effects on landscape character above.

25. In terms of the relationship to other properties, the site is a satisfactory size to ensure, at the reserved matters stage, the windows of the proposed dwellings could be positioned to prevent any material level of overlooking of the adjoining dwellings. These adjoining residents in the new estate would be aware of the new dwellings on the other side of the boundary, and it would change the character from a garden area to a development with two dwellings. However, with appropriate details at the reserved matters stage, the bulk, position and design of the scheme should not adversely affect the living conditions of the occupants of neighbouring houses.

26. The scheme has been the subject of ecological investigations and, with suitable conditions attached to any approval, there should not be an adverse effect on biodiversity resulting from the development.

27. Concerns have also been raised with the highway access, in particular the junction with Barty Way. I saw this road layout at my site visit, and while care is needed at this junction, the Highway Authority has not raised any road safety objections and I have found no reason to believe that there would be any unacceptable impact on highway safety that would result from the scheme. In terms of access, which is being considered at this stage, the proposal would be acceptable.

28. Residents raise concerns that the building works would cause disruption and be noisy and would thereby adversely affect their amenities. While there would inevitably be some impact from building works, if there was any undue noise or disturbance, this could be addressed by the Council's Environmental Health Department under other legislation. To construct the development, the site could be accessed via the drive and construction traffic would not need to directly pass by the front of the dwellings on the new estate. Furthermore, the works would be temporary and of a nature in proportion to the construction of two dwellings. It is not considered that any potential harm to neighbouring amenity whilst works took place could form a reason for refusal or should necessarily be unreasonable.

29. The Council consider that Glenrowan House should be judged a non-designated heritage asset, but do not believe that the scheme would harm its setting or significance. I have found no reason to disagree. Barty Farm Barn is a listed building that is located within the group of buildings broadly to the east of the

site. The barn is fairly well separated from the appeal site, with intervening buildings, such that there would be no direct intervisibility and the proposal would not result in any adverse impact on the setting of the listed barn.

Planning Balance

30. The development of the two dwellings would be located outside the settlement area in land designated as countryside. The location for the proposal would, therefore, fail the policies for the distribution and location of residential development set out in the Local Plan. The Council is able to demonstrate a Framework compliant supply and delivery of housing land. Consequently, policies that restrict the location of housing would not appear to hinder the delivery of the identified supply. I therefore attach the relevant policies, SS1 and SP17 of the Local Plan, full weight in the circumstances of this appeal. The scheme's conflict with these policies is such that there would be conflict with the development plan when considered as a whole.
31. The indications are that the Emerging Local Plan will be able to demonstrate a sound strategy to deliver the identified housing in the future and this supports the present position in relation to the approach to housing delivery.
32. On the other hand, the scheme is sited in a location which the Council accept has good access to services and facilities. Indeed, the adjoining site was allocated in the Local Plan and then a fairly sizeable housing scheme was permitted and built. Occupants of the proposed two dwellings would be able to access the services and facilities in Bearsted by foot and bicycle and they would be reasonably close to public transport, including the railway station at Bearsted, and the wider services and facilities in Maidstone.
33. Furthermore, the location is sited adjoining the settlement boundary of the urban area of Maidstone. Policy SS1 of the Local Plan identifies Maidstone as the principal focus for new development, as this is the largest and most sustainable location. Paragraph 4.23 of the Local Plan explains that the town of Maidstone cannot accommodate all of the growth that was then required on existing urban sites, and the most sustainable locations for additional planned development are at the edge of the urban area, expanding the boundary of the settlement in these locations. This helps explain the basis for the allocation of the housing adjoining the site and also provides some of the background that the appellant argues supports the case for the development of this site.
34. I consider that the appeal site is well contained and has a greater affinity with the built up area than with the open countryside. The change of this garden land to accommodate two dwellings would make efficient use of the site and would utilise an existing drive to access the development. The scheme would effectively infill the space between the new housing estate and Glenrowan House on land that does not make a valuable contribution to the openness of the countryside. The proposal, with a suitable design and layout at the reserved matters stage, would not harm the character and appearance of the area and would not, in character or visual terms, be experienced as an encroachment of development into the countryside.
35. The Council can demonstrate a five year housing land supply, but this figure is not a limit in itself to new development and the provision of two dwellings would provide a small boost to the supply of housing. There would be economic

and social benefits to the area during construction and in subsequent occupation. These are all benefits of the scheme.

36. I am conscious that the Framework explains that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. However, the Framework also states that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
37. I understand the importance of the plan led system, however there are very specific circumstances in this case, including with the nature of the site, its containment and affinity with the built up area and the relationship to the new housing estate, the good access to local services and facilities, and the lack of harm to the character and appearance of the area in the way that I have identified. When all the benefits of the scheme and the specific circumstances of this site are taken into account, I consider that these benefits and characteristics should afford such weight that they outweigh the conflict with the development plan. In these circumstances, I am satisfied that a decision other than in accordance with the development plan is merited. I wish to make it clear that this is due to the specific circumstances and character of this site which I consider would be unlikely to be replicated by circumstances elsewhere.

Conditions

38. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance. The statutory time limits are required for an outline proposal and a condition specifying the approved plans is necessary in the interests of certainty.
39. A condition requiring details for the site levels of the development is necessary in the interests of the character and appearance of the area, to protect trees and to provide a satisfactory relationship with adjoining properties. Conditions concerning the protection and mitigation for reptiles and amphibians, method statement for the removal of buildings and vegetation to conserve protected species, as well as ecological enhancements, are necessary in the interests of the biodiversity of the site and protected species. It is necessary that these (with the exception of the ecological enhancement condition) are pre-commencement conditions to ensure that these matters are addressed, agreed and implemented from the outset, including in relation to levels because of the potential impact on trees.
40. Conditions that the Council has requested in terms of the external materials for the development, fencing, walls and other boundary treatments, and hard and soft landscaping, are not required at this outline stage because they would be the subject of the reserved matters submissions. The Council also seek a condition to remove permitted development rights for the erection of fences and other means of enclosure. However, the initial means of enclosure would be agreed at the reserved matters stage, and it is not considered that the case has been made for the removal of such rights subsequently, given the nature and character of the site within its surroundings. Consequently, such removal of permitted development rights would not be reasonable or necessary.

41. A condition requiring the submission and agreement of decentralised and renewable or low-carbon sources of energy to be incorporated into the scheme is necessary in the interests of sustainability and minimising the carbon footprint of the development. A condition requiring the provision of covered and secure cycle parking is needed in the interests of encouraging sustainable transport options for future occupants of the site.
42. The trees are an especially important feature of the site. A condition is necessary to ensure that the trees are protected during work in accordance with the submitted Arboricultural Report and plan details.
43. The Council seek a condition that prior to commencement a scheme to demonstrate that the internal and external noise environment levels are at such a level to meet identified British Standards. The Environmental Health Section explain that this is because there is a railway line to the north of the site, and although it is at some distance away, it suggests a noise condition is attached to any permission for this application, as a precaution. However, the rail route is at times in a cutting, partially screened by trees and some distance from the site. There is no persuasive evidence that rail noise is a particular problem for inhabitants in this locality and the evidence does not demonstrate that the proposed condition would meet the tests of necessity or reasonableness.
44. Details of any external lighting should require prior submission and approval in the interests of ecological protection, the amenities of adjoining residents and the character and appearance of the area.

Conclusion

45. In the light of the above analysis, and taking all matters into account, I conclude that the appeal should succeed, and outline planning permission should be granted.

David Wyborn

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: DHA/15657/01 Rev A and DHA/15657/04 Rev A.
- 5) Prior to the commencement of the development hereby approved, details of existing and proposed site levels; and finished floor levels of the buildings shall be submitted to and be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels and shall be maintained as such thereafter.
- 6) Prior to the commencement of the development hereby approved (including site clearance), a reptile and amphibian mitigation strategy shall be submitted to and be approved in writing by the Local Planning Authority. The mitigation strategy shall provide the following information:
 - (i) Detailed methodology for the capture and translocation of reptiles and amphibians demonstrating that the methods are in accordance with best practice guidance and are aligned with the proposed phasing of construction;
 - (ii) Detailed locations of the reptile populations and likely amphibian populations proposed for capture and translocation and the proposed receptor site shown on plans of a suitable scale;
 - (iii) Details of the receptor site preparation and ecological enhancements necessary to improve the receptor site and make it suitable for reptiles and amphibians prior to translocation;
 - (iv) Management prescriptions to maintain the receptor site in a suitable condition for reptiles and amphibians in the long term.

The approved strategy and translocation shall be implemented and completed prior to the commencement of the development hereby approved (including site clearance), and any mitigation measures shall be retained throughout the life of the development.
- 7) Prior to the commencement of the development hereby approved (including site clearance), a precautionary method statement for the removal of the buildings and trees and shrubs on the site shall be submitted to and be approved in writing by the Local Planning Authority. The content of the precautionary method statement shall include:
 - (i) Detailed working methods necessary to avoid the killing or injury of breeding birds, and bats;

(ii) Extent and location of proposed works, shown on appropriate scale maps and plans;

(iii) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction and taking into consideration the active and the sensitive periods for these animal groups;

(iv) Persons responsible for implementing the works, including times during site clearance/ construction when specialist ecologists need to be present on site to undertake/oversee works;

(v) Provision for bat 'rescue' if animals are encountered;

The works shall be carried out in accordance with the approved details.

- 8) Prior to the commencement of development above damp-proof course level, details of ecological enhancements integrated into the design and fabric of each of the dwellings hereby approved, to include swift bricks, bat tubes and bee bricks, shall be submitted to and be approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the relevant dwelling and all features shall be maintained as such thereafter.
- 9) Prior to the commencement of development above damp-proof course level, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The approved details shall be installed and be operational prior to the first occupation of each dwelling and shall be maintained as such thereafter.
- 10) Details of covered and secure cycle parking facilities for each dwelling shall be submitted to and be approved in writing by the Local Planning Authority. The approved details shall be in place prior to the occupation of the relevant dwelling and shall be maintained as such thereafter.
- 11) The development hereby approved shall be carried out in accordance with the submitted Arboricultural Impact Assessment and Preliminary Tree Protection Plan (Dated: 22nd Feb 2022) and drawing references: PJC/5913/21/D (Tree Protection Plan); PJC/5913/21/C (Root Protection Area Incursion Plan); and PJC/5913/21/B (Tree Retention Plan).
- 12) No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details have been submitted to and been approved in writing by the Local Planning Authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. Any details to be submitted shall also accord with the measures outlined in the recommendations of Section 4.4 of the submitted Preliminary Ecological Appraisal (Dated: 12th November 2021); and the guidance contained in Guidance Note 08/18 Bats and Artificial Lighting in the UK (Bat Conservation Trust and the Institute of Lighting Professionals). The development shall thereafter be carried out

in accordance with the approved details and maintained as such thereafter.

End of Schedule