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## Appeal Decision

Site visit made on 13 March 2017

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 April 2017

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**Appeal Ref: APP/Z2260/W/16/3164748**

**66 Monkton Road, Minster, Ramsgate CT12 4EE**

- 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 Crabtree & Crabtree (Minster) Ltd against the decision of Thanet District Council.
  - The application Ref OL/TH/16/0654, dated 12 May 2016, was refused by notice dated 23 November 2016.
  - The development proposed is the change of use of land and erection of 36 dwellings with construction of new access from Monkton Road, associated new internal access roads, drainage and landscaping.
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### Decision

1. The appeal is allowed and permission is granted for the change of use of land and erection of 36 dwellings with construction of new access from Monkton Road, associated new internal access roads, drainage and landscaping at 66 Monkton Road, Minster, Ramsgate CT12 4EE, in accordance with the terms of the application, Ref OL/TH/16/0654, dated 12 May 2016, subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Crabtree & Crabtree (Minster) Ltd against Thanet District Council. This application is the subject of a separate Decision.

### Preliminary matters

3. The application was submitted in outline with all matters reserved for later determination except access. I have dealt with the appeal on this basis, treating the site layout, unit mix and street sections as illustrative only.
4. During the site visit a small error in the application site boundary was noticed which led to the submission of a revised site boundary plan. I am satisfied that this minor change does not prejudice any party and have therefore determined the appeal on the basis of the most accurate plan.

### Main Issue

5. The main issue is whether the site should be released for housing development in view of the housing land supply position and the effect of the proposal on the character and appearance of the area and the setting of the Grade II listed building Eden Hall.

## Reasons

6. The appeal site, about 1.3 ha in size, comprises No 66, a chalet bungalow situated on the southern side of Monkton Road, together with a large area of grazing land situated behind the property. The site extends behind the adjacent property, No 68, and to the west of No 64, the grounds of Eden Hall, Walnut Tree Cottage/Cherry Tree Cottage and Cheney Road, a new housing estate situated on the western side of the village of Minster.
7. The proposal involves the demolition of No 66 and various outbuildings on the site and the construction of a cul-de-sac development of 36 dwellings. The site access from Monkton Road, which involves the frontage of No 68, has been agreed by the local highway authority subject to conditions. The illustrative plans show a mixture of 2, 3 and 4 bedroom properties along a spine road and includes terraced, semi-detached and detached house types.
8. The site lies just outside the built up village confines of Minster as defined by the Thanet Local Plan 2006 (TLP) and consequently in the countryside for planning policy purposes. As such Policy CC1 applies, which restricts new housing 'unless there is a need for the development that overrides the need to protect the countryside'. However, the Council accepts that it cannot demonstrate a five year supply of deliverable housing sites and consequently policies for the supply of housing should not be considered up to date. In these circumstances Policy CC1 can only be afforded limited weight in this appeal.
9. A new local plan is under preparation but this has only reached the stage of a Preferred Options Draft Local Plan, with the Council currently consulting on proposed revisions to that draft plan. Whilst some sites identified in the draft plan have now been given planning permission, which indicates the Council is seeking to address the housing land supply position, there is still no five year supply and no indication of when the plan will be submitted for examination. In these circumstances the potential site allocations of the emerging local plan can only be given limited weight and planning permission for housing on other sites should be actively considered if suitable sites come forward. This includes further sites in Minster notwithstanding the proposed allocations in the village.
10. The site is adjacent to the built up confines of Minster and close to the village centre with its wide range of services and facilities including shops, doctor's surgery, primary school and railway station. As such there is no dispute that the site is a sustainable location for new housing.
11. The site comprises grazing paddocks which have no particular landscape value in themselves. With frontage development along Monkton Road to the north and individual properties and a new housing estate to the east there are no views of the site from within the village itself. Consequently, whilst the open land is close to the village centre, it cannot be perceived by passers-by within the existing built up area. In addition, with the village already extending well to the west along Monkton Road, it does not contribute to the open countryside gap between Minster and the neighbouring village of Monkton.
12. There are a number of footpaths which leave the village and extend out into the countryside, including an east-west path which runs along the southern boundary of the site and two north-south paths, one running along the eastern boundary and one a field away to the west. These paths are well used and allow residents to appreciate the countryside setting of the village. However,

the appeal site is visually very well contained with a woodland strip, Poplar tree belt with hedgerow beneath and semi-mature thorn hedge along the eastern, southern and western boundaries respectively. These strong landscape features separate the site from the open arable farmland to the south and west and would screen the new housing from wider countryside views. They would also, strengthened if necessary, screen the housing on one side from footpath users on the other who would still be able to enjoy open rural views.

13. Eden Hall, a Grade II listed building, lies within quite large grounds to the north east of the appeal site. One of the earliest surviving domestic buildings in Thanet and dating from the early 15th century, it comprises a timber framed hall house with later wings to the rear and a brick façade added in the late 18th century. The building faces east, away from the appeal site, and the only public views of it are from Monkton Road. The setting of the building on this side would not be changed by the proposal in any way and its appreciation by residents of the village would therefore be unaffected.
14. The appeal site abuts the south western boundary of the grounds of Eden Hall, but the building itself is about 30 m away with a number of intervening trees within the garden. Until recently there was also a substantial tree screen along the common boundary but in the last few months some specimens have had to be removed for arboricultural reasons. This has opened up part of the common boundary but replacement structural planting would be possible within the appeal site as part of the scheme. In addition, the layout of the proposal could take account of the listed building with rear gardens adjoining the boundary rather than houses, thus softening the nearest part of the scheme.
15. The Council submitted an old Ordnance Survey map which labels the building Eden Farm and shows it adjoining an orchard on the appeal site and arable land beyond. It is therefore likely to have been historically associated with surrounding open land. However, the village has now encroached up to the building on three sides and the appeal site was sold into different ownership many years ago since when a strong intervening boundary has developed. The remaining connection of the building with open land is therefore tenuous and not visible to the public. Even with housing also to the south west the grounds of Eden Hall would continue to provide a sufficiently wide setting in which the building would be appreciated and thus its significance preserved.
16. The statutory requirement is to have special regard to the desirability of preserving the building, or in this case, its setting. As explained above, the harm to the setting of Eden Hall would be minimal. In relation to national policy<sup>1</sup> there would be less than substantial harm to the significance of the heritage asset. Even giving great weight to the asset's conservation the public benefit of providing 36 additional houses (11 affordable) in an area with a shortage of housing land would more than outweigh that harm.
17. For these reasons the site should be released for housing development in view of the lack of a five year housing land supply and the limited effect of the proposal on the character and appearance of the area and the setting of the Grade II listed Eden Hall. The proposal would actually comply with Policy CC1 of the TLP because there is a need for the development that overrides the need to protect the countryside and the statutory and policy tests for development affecting the setting of a listed building would also be met.

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<sup>1</sup> in paragraphs 134 and 132 of the National Planning Policy Framework

### *Other matters*

18. I have carefully considered all the other objections that have been raised against the proposal. Many relate to traffic and highway issues but a detailed transport assessment was submitted with the application and following consideration of this the local highway authority did not object subject to appropriate conditions. Details of the surface water drainage and sewerage arrangements could also be controlled by condition thus protecting against flooding and pollution. Concerns relating to additional pressure on local services and infrastructure are not substantiated by detailed evidence and a unilateral undertaking has been submitted which would provide additional school places. Potential problems of overlooking and the proximity of buildings can be addressed at detailed design stage but it is important to recognise that there is no right to an open view. Archaeological interests can be protected by condition. The likely impact on crime would be minimal and ecological enhancements are proposed to offset any wildlife losses. Any effect on the value of nearby property cannot be a determinative factor in itself. Finally, the disruption caused during construction would only be for a temporary period and could be controlled by a construction management plan. None of these objections therefore, even in combination, are sufficient to outweigh the conclusion in relation to the main issue.

### **Unilateral Undertaking**

19. The appellant has submitted a unilateral undertaking to provide an affordable housing scheme of eleven units on the site together with financial contributions of £84,994 towards Birchington Primary School, £84,952 towards the Royal Harbour Secondary School, £1,728 towards library book stock and £14,688 to fund mitigation measures to avoid adverse impacts on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). Information has been provided to justify these particular sums which appear reasonable and are not disputed.
20. The proposal would generate additional demand for local school places, library services and extra visitor pressure on the SPA which may threaten its biodiversity. As such, the contributions would be necessary, directly related and fair and reasonable in scale and kind, the three tests in Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the National Planning Policy Framework.
21. The Council have confirmed that the undertaking would be effective and that the contribution towards SPA mitigation measures would not comprise infrastructure. In addition, Kent County Council have confirmed that the school and library contributions would not breach the pooling restriction in Regulation 123 (3) of the CIL Regulations. There is no reason to doubt these assurances and accordingly the unilateral undertaking should be taken into account.

### **Conditions**

22. The Council has put forward several conditions should the appeal be allowed. As an outline application three conditions need to be attached to require the approval of the reserved matters and the commencement of the development within the standard time limits. A condition is necessary to limit any buildings to two storeys to ensure the satisfactory appearance of the development. Further conditions are necessary for the approval and then implementation of the highway design and construction arrangements, to ensure a bound surface

at the highway access and visibility splays, all in the interests of highway safety. Cycle parking facilities, a link to the adjacent public footpath and electric charging points are necessary in the interests of sustainable transport.

23. A sustainable surface water drainage scheme, the control of ground infiltration and details of foul water drainage are necessary to prevent flooding and pollution. Conditions to require a construction management plan and preclude habitable rooms in close proximity to a pumping station are necessary to protect the living conditions of nearby occupiers. Finally, conditions are necessary to protect archaeological interests on the site, ensure recommended measures in the ecological, arboricultural and landscape reports are included in the scheme and to require any contamination to be addressed in order to ensure a fully sustainable development.
24. The appellant disputes a condition requiring at least 15% of the dwellings to be lifetime homes and wheelchair housing as this exceeds the request in the Committee report for one wheelchair accessible home to be provided as part of the affordable housing. There is no policy basis or evidence put forward for such a requirement and it has not therefore been adequately justified.

**Conclusion**

25. Having regard to the above the appeal is allowed.

*David Reed*

INSPECTOR

Richborough Estates

### **Schedule of conditions**

- 1) Details of the layout, scale and appearance of the buildings to be erected, and the landscaping of the site (hereafter 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 before the expiration of three years from the date of this decision.
- 3) The development hereby permitted shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No buildings within any part of the site shall exceed two storeys in height as specified in the supporting statements that were submitted with the planning application hereby approved.
- 5) No development shall take place until details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking spaces, turning areas and street furniture have been submitted to and approved in writing by the Local Planning Authority, and the development shall then be carried out as approved.
- 6) The development hereby permitted shall incorporate bound surface materials for the first five metres of the access from the edge of the highway.
- 7) Prior to the first occupation of any of the dwellings hereby permitted the following works shall be completed:
  - (a) Footways and/or footpaths, with the exception of the wearing course;
  - (b) Vehicular access and carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility, street lighting, street nameplates and highway structures between any dwelling and the adopted highway.
  - (c) Vehicle parking spaces and turning areas relevant to the dwelling.
- 8) Prior to the first occupation of any dwelling hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved plans. The splays shall thereafter be maintained at all times free from any obstruction exceeding 1 metre above the level of the adjacent highway carriageway.
- 9) Prior to the first occupation of any dwelling hereby permitted pedestrian visibility splays measuring 1 metre x 1 metre shall be provided behind the footway on both sides of each private access and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the footway.

- 10) Prior to the first occupation of any dwelling, secure cycle parking facilities shall be provided and thereafter maintained in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 11) The details to be submitted pursuant to Condition 1 above shall include provision of a pedestrian connection to public footpath TE462. The connection shall then be completed prior to the first occupation of any dwelling hereby permitted.
- 12) The details to be submitted pursuant to Condition 1 above shall include a construction management plan, to include the following:
  - (a) Routing of construction and delivery vehicles to/from site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries
  - (d) Provision of wheel washing facilities
- 13) The layout plan to be submitted pursuant to condition 1 above shall identify the location of Electric Vehicle Charging Points, in the form of 1 EV charging point per residential property with dedicated parking, and 1 in 10 of all allocated parking, with full details of the Electric Vehicle Charging Points to be submitted to and approved in writing by the Local Planning Authority.
- 14) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted to, and received approval in writing from the Local Planning Authority for, a remediation strategy detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall then be implemented as approved.
- 15) No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall then be carried out in accordance with the approved details.
- 16) No development shall take place until details of the means of foul and surface water disposal, including details of the implementation, management and maintenance of any proposed Sustainable Urban Drainage System, have been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the run-off leaving the site post-development will be attenuated on site and discharged to the receiving sewer at a maximum rate, as formally agreed with Southern Water, for all rainfall events, up to and including the climate change adjusted critical 100 year storm. The development shall then be carried out in accordance with the approved details and thereafter maintained at all times.
- 17) No dwelling hereby permitted shall be first occupied until details of the implementation, maintenance and management of the sustainable

drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
- 18) The detailed design of the dwellings hereby permitted, to be submitted pursuant to condition 1 above, shall show no habitable rooms located closer than 15 metres to the boundary of any proposed pumping station site.
- 19) The landscaping plan to be submitted pursuant to condition 1 above shall include the ecological enhancements detailed within the Ecological Appraisal (dated February 2016 by Aspect Ecology), the recommendations of the Arboricultural Report (dated 16th May 2016 by Chartwell Tree Consultants Ltd) and the recommendations identified within the Landscape Appraisal (dated November 2015 for Crabtree & Crabtree(Minster) Ltd).
- 20) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
  - ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.