



Appeal Decision

Hearing held on 7 and 8 June 2022

Site visit made on 8 June 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2022

Appeal Ref: APP/E2205/W/21/3284706

Land East of Ashford Road, Kingsnorth

- 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 Malcolm Jarvis Homes Ltd against the decision of Ashford Borough Council.
 - The application Ref 21/00126/AS, dated 18 January 2021, was refused by notice dated 16 April 2021.
 - The development proposed is outline application for up to 15 dwellings, a replacement Medical Centre and Pharmacy, together with all necessary infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An illustrative masterplan¹ was submitted with the appeal which shows how the site might be developed in the event the appeal was allowed. The Council have had the opportunity to comment on this as part of the appeal. I am satisfied that this plan does not materially alter the substance of the application the Council originally considered and interested parties would not be unduly prejudiced. Therefore, I have accepted this plan.
3. The application was submitted in outline form, with only access to be considered at this stage, and I have dealt with the appeal accordingly. The planning application included several plans which show details of landscaping and layout. Like the aforementioned illustrative masterplan, I have treated these plans as illustrative only, and I have taken them into account only insofar as it shows how the site could be developed in future.
4. A Nutrient Neutrality and Mitigation Strategy (Nutrient Strategy) was submitted along with the appeal. However, during the Hearing it came to light that more recent guidance had been issued by Natural England which had the potential to affect the methodology and outcomes relating to the Nutrient Strategy and the proposal's impact on designated European sites.
5. As a result, I allowed the appellant to update the Nutrient Strategy following the Hearing to reflect the up-to-date guidance. The Council and Natural England were given an opportunity to comment on the updated Nutrient

¹ Entitled 'Illustrative Masterplan – revised for the appeal of Kingsnorth Medical Centre on the 16th October 2021'

Strategy². Therefore, I am satisfied that no procedural unfairness arises. I deal with this in more detail in my reasoning.

Main Issues

6. The main issues in this case are:

- The effect of the proposal on the integrity of designated Habitats Sites (Stodmarsh), with particular regard to nitrogen and phosphorous nutrient levels, including any mitigation proposed.
- The suitability of the appeal site for the proposed development having regard to Local Plan policies, and the impact on character and appearance with particular regard to the 'green buffer', the 'Ashford Green Corridor', and potential coalescence.
- The effect of the proposal on the provision of health care facilities within Ashford Borough.

Reasons

Effect of the proposal on Stodmarsh - Nutrients

7. Stodmarsh³ comprises habitats sites, protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Its national and international importance relates mainly to the wetland habitats, reed beds and grazing marshes within it. They support wetland bird species and their wintering and breeding habitats. The integrity of these wetlands relies on both a high quality of water and stable water levels.
8. According to Natural England, some lakes within Stodmarsh are impacted by an excess of both nitrogen and phosphorus. This can lead to eutrophication which is having an adverse effect on Stodmarsh's water environment, to the detriment of the habitats and species that rely on it.
9. The water environment within the wider Stour catchment is of particular importance. This is because it is a potential pathway to Stodmarsh through nutrient inputs caused mainly by wastewater from housing and agricultural sources. This includes wastewater treated at Wastewater Treatment Works (WTW) which subsequently discharge into the Stour catchment. This has the potential to increase the nutrient burden, adversely affecting Stodmarsh.
10. The appeal site lies within the Stour catchment. The proposal would involve a form of development which would generate wastewater, along with potential for pollution due to surface water runoff. Consequently, there would be a potential pathway to Stodmarsh which could increase its nutrient load, and likely significant effects cannot be screened out. As a result of this, I am obliged under the Habitats Regulations as the competent authority to carry out an Appropriate Assessment.
11. As stated above, it is the quality of the water environment within Stodmarsh, affected by water which flows into it from the wider Stour catchment, which is

² Ref - 332410625/200.1 Rev A

³ Also known as 'European sites'. They comprise a Special Area of Conservation, Special Protection Area and Ramsar Site. Stodmarsh is also a Site of Special Scientific Interest and National Nature Reserve

the key consideration. As detailed in the NE guidance 2020⁴, due to excessive nutrients within some Stodmarsh waterbodies, they are deemed as being in an unfavourable condition. Therefore, the aim is to prevent further deterioration of water quality through further nutrient loading.

12. Natural England advises that competent authorities should carefully consider the nutrient impacts of proposals on habitat sites, and whether those impacts that may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality. This is set out in the March 2022 advice by Natural England⁵ (NE guidance 2022). The concept of nutrient neutrality recognises that if there is no net increase in nutrient loading within the catchments of the affected habitats site as a result of proposals, then existing nutrient issues will not be exacerbated.
13. As set out in the 'preliminary matters' section of my decision, the appellant's current and revised position is that the proposal would be nutrient neutral. This differs from the evidence I heard during the Hearing, and the contents of the original Nutrient Strategy, which indicated that the proposal would result in a nutrient surplus, thus would not be nutrient neutral.
14. The appellant's proposition that the proposal would now be nutrient neutral is predicated on the NE guidance 2022. In comparison with the 2020 guidance that preceded it, the guidance differs in several areas. Insofar as is important in this appeal, the amount of nutrients exported from the site in its current, pre-developed state, has the potential to significantly affect the 'nutrient budget' so that, in the appellant's view, the proposal would be nutrient neutral, and mitigation would not be necessary.
15. In this regard, the entirety of the existing site has been classified by the appellant as 'general cropping' land; that is to say *agricultural areas on which arable crops are farmed*. The classification of the existing land is where the focus of uncertainty in determining the nutrient budget lies in this case, as reflected in Natural England's consultation response to this appeal.
16. In terms of appropriately determining current land use, NE guidance 2022⁶ states that it should be based on best available evidence (Natural England recommends a period of at least 10 years), research and professional judgment, accepting that any assessment is subject to a degree of uncertainty. However, a precautionary approach should be adopted by the decision maker.
17. The appeal site can generally be split into four distinct areas. It is generally common ground between the main parties, aided by submitted photographic evidence, that the larger central portion of the appeal site has been used for cropping for much of the time in excess of a period of 10 years. Based on this and from what I saw on my site visit, I have no reason to dispute this.
18. The same cannot be said for the western parcel of land, however⁷. When I visited the site, it had a rather unkempt appearance and, although covered with patchy rough grassland, displayed little evidence of formal agricultural

⁴ Natural England - *Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites* - 2020

⁵ Natural England - *Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites* - March 2022

⁶ Which included a document entitled '*Nutrient Neutrality Generic Methodology*' dated February 2022

⁷ To clarify – that is the parcel of land closest to Ashford Road which the appellant has also referred to as the 'eastern parcel'

use. I appreciate that submitted aerial photographs taken at different times over the last 10 years show the site as green and vegetated; however, that does not mean to say it was planted with crop and farmed. Aside from anecdotal evidence from the appellant suggesting 'regular planting and harvesting'; based on the evidence before me and my site visit, I am not able to conclude with a sufficient degree of certainty that this part of the site should be classed as general cropping land.

19. Moreover, even if the south-eastern field was used for agricultural purposes in the past as claimed by the appellant, it now resembles scrubland, indicative of land which has not been used for arable purposes for a period of time. Consequently, this part of the appeal site does not fit the general cropping land classification either.
20. In terms of the northern parcel of land, evidence of recent agricultural activity is limited, and relies mainly on aerial photographs from 2013 onwards which show areas of grassland, but nothing of substance to indicate regular agricultural use. Moreover, I have not been provided with specific details of the farming enterprise, nor sufficient evidence of a regular crop over a prolonged period.
21. Notwithstanding my findings concerning the adopted land classification, the appellant considers that the general cropping category best describes the site when the other listed categories are also taken into account. They use the example of the 'greenspace' category, which they contend would not be appropriate as it relates to land accessible by the public, which is not the case here.
22. However, 'greenspace' is one of 17 categories listed in the NE guidance which appear to be split generally into agricultural and non-agricultural uses⁸. Given that a significant component of nutrient loading can derive from agricultural sources, selecting an existing land use classification with an agricultural component is likely to yield different results to using a non-agricultural classification. Therefore, it seems to me that a key determinant in this case is the extent to which the appeal site should be classified as agricultural given the potential effect this has in calculating the nutrient budget. Using the alternative suggestion 'mixed agricultural' classification would therefore not address the fundamental concerns I have given that an agricultural use of any kind has not been adequately demonstrated.
23. As a result of the findings above, I have considerable doubts over the adopted land use classification across the entire site such that the pre-development nutrient calculation carried out by the appellant cannot be relied upon. Even accepting the inherent uncertainty involved in judgments concerning the classification of land, there is a lack of objective evidence to support the classification chosen, thus it is not adequately justified. As a result of this, the proposal would have the potential to adversely affect the integrity of Stodmarsh.
24. In terms of mitigation, due to the advancement of a scheme considered by the appellant to be nutrient neutral, no mitigation has been set out. However, it is worth noting that the original Nutrient Strategy, in concluding that the proposal would lead to potential nutrient loading, included mitigation.

⁸ Natural England - Nutrient budget calculator guidance document March 2022 contains list of classifications

25. This mitigation involved the storage of foulwater on site to be periodically removed from the site via a tanker to an appropriate WTW facility outside the Stour catchment. It involved no connection from the development to the existing foulwater sewage infrastructure. The second form of mitigation involved a surface water drainage wetland strategy.
26. Dealing with these briefly. Due to the NE guidance 2022 which has evidently altered the nutrient budget for the site, and given my concerns over the land use classification adopted, it is unclear to me whether there would be sufficient space within the site to adequately accommodate wetlands as a form of surface water mitigation if the assessment was undertaken again.
27. In addition, the mitigation would rely on the imposition of a planning condition requiring a strategy to remove wastewater off-site by tanker to an appropriate WTW. However, I have been provided with no written assurance that WTW outside the Stour catchment would be willing to take wastewater from the proposed development, nor of any obligation on them to do so. In addition, once tankers carrying wastewater were to leave the site, control of the deposit and subsequent processing of wastewater would fall outside the appellant's control. In this regard, the imposition of such a condition would fail the test of reasonableness and enforceability.
28. As a result of the foregoing, and in adopting the precautionary principle, I cannot be satisfied that the scheme could be delivered without adversely affecting the integrity of habitats sites. Stodmarsh. As a result, the proposal would conflict with Policies HOU5 and SP1 of the Ashford Local Plan 2013 (adopted 2019) (Local Plan) and paragraph 180 of the National Planning Policy Framework which requires that the natural environment and biodiversity is conserved, that there is no adverse effect on the integrity of habitats sites, and that if significant harm to biodiversity cannot be avoided, including with regard to mitigation, then planning permission should be refused.

Location, character and appearance

29. There is no dispute between the main parties that, for the purposes of planning policy, the appeal site lies in the countryside. Given its location close to the existing built-up confines of the Kingsnorth settlement, Policies HOU5 and EMP1 of the Local Plan do not preclude residential windfall and employment development, subject to a number of criteria, including matters relating to character and appearance.
30. The Local Plan contains a number of site allocations, some of which are subject to site-specific policies⁹. The allocations within the wider area taken together form the South Ashford Garden Community¹⁰. The appeal site lies within the allocation 'Land North of Steeds Lane and Magpie Hall Road' which is subject to site-specific Policy S4 of the Local Plan. Accompanying the policy is a map which outlines the entirety of the site allocation, detailing areas of potential 'indicative development', 'indicative accesses', as well as a 'green buffer'.
31. During the Hearing the Council accepted that the site-specific policies allow a degree of flexibility. It follows therefore, that the allocations map is an illustrative interpretation of the text contained within Policy S4 and it too should be viewed with flexibility in mind. Therefore, the site allocation map

⁹ As detailed in Chapter 3 of the Local Plan.

¹⁰ Part of the Government's Garden Communities programme

cannot be viewed in isolation; rather, it should be read alongside the site-specific criteria detailed within Policy S4.

32. The position and extent of the green buffer on the site allocation map is generally reflective of the rationale provided in the supporting text to policy S4, which states that the space between the ridge lying to the south of the appeal site and Kingsnorth village should form a strategic open buffer.
33. Most of the proposal would occupy part of this green buffer. To my mind, the function of the green buffer in this location is primarily a visual and spatial one, in place to prevent coalescence between any development within the site allocation and Kingsnorth village. It is characterised by its general openness and a lack of built development, although it has limited value as useable green space given that there is limited public access to the green buffer and no evidence to suggest it is well used on an informal basis by members of the public.
34. From a wider landscape perspective, the appeal site is situated within the Betersden Farmlands Landscape Character Area and within the Kingsnorth Wooded Pasture District Landscape Type as identified by the Ashford Landscape Character SPD (2011)¹¹ (LCSPD). The LCSPD identifies key characteristics, including the open undulating mixed farmland nature of the area, with arable and sheep grazing, and a mix of strong but gappy hedgerows with intermittent trees. The LCSPD indicates that this landscape has a moderate condition and moderate sensitivity with a recommendation to 'conserve and create'. I am satisfied that it does not form a 'valued landscape' as per paragraph 174(a) of the Framework.
35. The key characteristics of the landscape set out in the LCSPD generally match the observations I made on my site visit. However, as set out previously, not all of the land appears to be in agricultural use. In addition, the land generally rises to a plateau immediately to the south. Furthermore, the appeal site lies close to small areas of residential development located along Ashford Road, and further housing which abuts the site off Church Hill. This housing is partially screened by vegetation. As a result, the western portion of the appeal site generally has a semi-rural character influenced by the presence of housing and the noise of traffic travelling along Ashford Road, whereas the eastern portion of the site in general is distinctly more rural in character and appearance. Overall, the site retains a pleasant, verdant and open character.
36. Turning to the effects of the proposal; there is no doubt that the combination of housing, medical facilities, parking and the roads that connect these elements to Ashford Road would constitute a form of urban encroachment. Nevertheless, in context of the entirety of the green buffer, the proposal would occupy only 7% of this space. Therefore, the extent of urban encroachment into the green buffer would be moderate.
37. In respect of qualitative effects, the location and height of the existing ridgeline to the south is important here. As detailed on the submitted illustrative masterplan, the proposed buildings could be positioned downslope of the ridge so that the landform would mitigate the visual impact of the development when viewed from the south. Moreover, the proposed medical facilities, which are indicated as buildings with a larger footprint, could be located closer to Ashford

¹¹ Based on several previous landscape character studies as referenced in the LCSPD

Road (closer to existing built form), with the housing being located further to the east also away from the upper slopes and the ridgeline to the south. The proposed open space to the north and east along with existing and proposed landscaping would result in a development contained to an extent by topography, open space and landscape features.

38. A planning application is proposed to the south of the appeal site which is currently being considered by the Council¹² (Kingsnorth Green). The associated built form would occupy part of the 'indicative development areas' as set out in site-specific policies S4 and S5 of the Local Plan. However, the weight to be attached to this planning application as a material consideration in this appeal is diminished given it is undetermined and any details associated with it at this stage could well change, and there is no certainty that it will be granted planning permission.
39. In any event, despite the Council's concerns that the Kingsnorth Green development could open up views such that both the housing associated with the appeal site and Kingsnorth Green would be intervisible, there is nothing before me to suggest that the built form associated with Kingsnorth Green is likely to be located within the green buffer. Consequently, it seems unlikely that intervisible views would be obtainable given that the plateau would act to screen the two respective schemes, and a buffer between the two would be retained. Nevertheless, even if I was to accept the Council's assertion that intervisibility would be achievable, there would be a notable gap between the two elements such that they would largely appear separate.
40. I do, however, accept that the scheme would result in the loss of the green buffer at its narrowest point, close to Ashford Road. The scheme would infill this gap that exists between housing to the south of the site on Ashford Road, and the housing which lies to the north on Myrtle Court. The potential to reduce the visual connection between existing built form by setting proposed buildings back from the road and through additional landscaping is acknowledged. However, whilst I am satisfied that the scheme in its entirety would not lead to physical coalescence, an element of it would discernibly reduce the undeveloped gap that currently exists, creating a ribbon of development comprising the existing housing and the proposed scheme.
41. In respect of the northern portion of the appeal site, this could be retained as a green buffer, thus ensuring spatial separation between the appeal site and some of the housing along Church Hill. Moreover, there is no suggestion that the significance of the Kingsnorth Conservation Area (CA), which comprises the historic core of the village located to the northeast of the appeal site, would be harmed through development within its setting.
42. Whilst I do not accept that the green buffer is a landscape feature *per se*, it is evident that features of the landscape which contribute to the green buffer's character and appearance would need to be removed to accommodate the development. Based on the illustrative masterplan, this would include a small part of the hedgerow fronting Ashford Road to allow access (with the remainder being retained) as well as some hedgerows within the site in order to accommodate the layout. However, by and large, the proposal would conserve mature field boundary hedgerows as well as offering the potential to enhance these features and reduce existing gaps within hedgerows.

¹² Planning application reference - 15/00856/AS

43. In terms of visual impacts, the main impacts would be experienced when viewed from Ashford Road where some existing vegetation would be removed, and the site frontage opened up. Based on the illustrative masterplan, some of the buildings would be visible and prominent (particularly the medical facilities and new road infrastructure), although views from here would generally be transient, with the site mainly visible for pedestrians and drivers of vehicles travelling along the road. Nevertheless, this is one of the only points along Ashford Road where the openness of the green buffer is readily appreciable, thus to my mind its visual characteristics would be significantly reduced at this location, resulting in localised visual harm.
44. There would also be a change to the view of the appeal site from the rear of some residential properties on Myrtle Court and Ashford Road¹³, notwithstanding the presence of substantial vegetation screening in some cases. Given the high sensitivity of residential receptors, and accepting that views of the development could be softened by planting as part of the development, the openness of the green buffer would be significantly diminished for some. Nevertheless, only a limited number of properties would be affected, and obtainable views would be private, which means I attribute this impact only limited weight.
45. The main parties accept that views of the proposal from the wider area would be limited. This is reflected in the submitted Landscape and Visual Appraisal¹⁴ (LVA), and tallies with the observations I made on my site visit. In particular, views from sensitive receptors, such as users of the rural public footpaths to the south and west of the site, would largely be imperceptible due to the intervening topography and vegetation. Medium distance views of the proposal from other receptors would also be limited, with no more than slight adverse impacts over the long-term being recorded in the LVA.
46. Cognisant of all of the above, the harmful effects on the potential future addition to the 'Ashford Green Corridor' (AGC) would also be limited. Policy ENV2 of the Local Plan states that the protection and enhancement of the Green Corridor is a key objective. Unlike the green buffer, the policy specifically highlights it as a core element of Ashford's green infrastructure, providing multi-functional uses¹⁵.
47. It is apparent that the appeal site lies outside the current AGC. The plan accompanying this policy includes an arrow indicating the broad location of potential future additions to the green corridor¹⁶. This is a rather crude indication as to the potential location of the AGC in the future so that the extent and location of any future addition is unclear.
48. Even if I was to accept that the appeal site falls within an area of potential future growth in the AGC, the submitted illustrative masterplan indicates an area of enhanced open space with potential footpath connections to Kingsnorth and future development to the south. Therefore, the proposal could be designed to ensure public access and improved connectivity, addressing the AGCs principles. Of course, as with the green buffer, the potential for it to be used as part of the AGC would in part be compromised by the provision of

¹³ In particular those properties that abut the boundary of the appeal site

¹⁴ Document number - MHS227.20-D01

¹⁵ Paragraphs 9.19 and 9.20 of the Local Plan

¹⁶ Map 6 of the Local Plan

buildings and other infrastructure, but this harm would be counterbalanced by the fact it would occupy on a small area of potential future enhancement, and the enhancement the scheme would offer through the additional provision of useable open space and connectivity.

Conclusions on locational suitability of appeal site

49. The proposal would fall outside of the area allocated for housing, mostly within the green buffer. It would reduce the undeveloped and open nature of the gap that currently exists close to the existing housing along Ashford Road, as well as introducing new buildings and infrastructure further away from the road, in part of the green buffer which has a more rural character. There would be a resultant loss of openness, an urbanising effect, and some loss of separation between settlements.
50. However, the extent of harm would not be significant. Firstly, there would be sufficient space within the appeal site to ensure that the built form could be sited sensitively so as to be contained by existing topography and landscaping, along with the proposed areas of green space and landscaping which themselves would mitigate. As a result, gaps would be retained to the north and south of the appeal site between existing housing and development that may come forward as part of the Policy S4 allocation. In addition, the proposal would occupy a relatively small area of the wider green buffer, leaving a large proportion intact.
51. There would be some harm due to the visual impact of the proposal, particularly when viewed from Ashford Road, where the existing gap would be infilled by the proposed access and buildings. Even though landscaping would reduce these impacts, the loss of countryside would be apparent. However, this is one localised impact, and there would be limited harmful visual effects from other more distant viewpoints.
52. In summary, with reference to the effect on the countryside, the green buffer and its characteristics, the separation of settlements and landscape and visual impacts, I find moderate harm to the character and appearance of the area. As a result, there would be conflict with policies SP1, SP2, S4, SP6, EMP1, HOU5 and SP7 of the Local Plan. These policies, amongst other things, require development to be focussed on the indicative development areas of site allocation, to retain a significant open buffer between the northern extent of the development allocation and Kingsnorth village, the prevention of significant erosion of the gap between settlements and to respect the character and appearance of the surroundings.
53. Due to the moderate extent of encroachment, and the fact that the appeal site lies on a broad indicative area of future expansion of the AGC, the impact on the AGC would be limited, with any harm offset by the areas of open space proposed which could substantially improve the quality of accessibility in the local area. I find no conflict with Policy ENV2 of the Local Plan. I am also satisfied that the proposal would largely retain important features within the site. The urbanisation of the site and loss of some hedgerow when set against the additional planting proposed would demonstrate regard for the landscape characteristics and significance of the site, in line with policies ENV3a and ENV5 of the Local Plan.

Health care/Medical facilities

54. The existing facility serving Kingsnorth village and the surrounding area is Kingsnorth Medical Practice (KMP) which is located away from the appeal site. It has a footprint of *circa* 750m², and the future expansion of this facility appears to be limited due to on-site constraints, including flood risk. The limited available space for expansion¹⁷ would not be sufficient to cater for future growth and the existing premises are not able to adequately cater for existing patients. This was not challenged by the Council, and I have no reason to take a view contrary to the appellant in this regard. Consequently, I accept that new primary health care provision is necessary, and that KMP would not be a suitable site to facilitate this.
55. The Local Plan is predicated on the basis that infrastructure will be provided to support future development anticipated over the plan period¹⁸. Supporting the Local Plan is the Ashford Infrastructure Delivery Plan 2017 (IDP) which identifies background and context for future infrastructure delivery provision, including health and social care.
56. The IDP recognises that additional health infrastructure will be needed to support the new development set out in the Local Plan. However, at the time of producing the IDP, the Clinical Commissioning Group were unable to provide the Council with any firm proposals for additional health infrastructure requirements¹⁹. The Council confirmed during the Hearing that they were working with relevant agencies to ensure delivery of necessary health care provision. However, there has been no updated IDP and no evidence that an update is forthcoming.
57. An 'options appraisal' was submitted by the appellant as part of the planning application. As well as the aforementioned expansion of KMP, it also considered healthcare provision at different sites within the KMP catchment area²⁰. In terms of the site at Court Lodge²¹, a community facility is proposed within the planning application site boundary which could potentially accommodate a medical facility.
58. I give limited weight to the appellant's concerns about the financial cost of delivering a medical facility at Court Lodge. By their own admission, it would be 'less viable' as opposed to unviable, with no substantive evidence to support this claim. Moreover, whilst I accept a scheme at Court Lodge would be less convenient for some existing patients, it would nevertheless fall within the catchment area and would be well located within the South Ashford Garden Community, thus accessible for prospective future patients. Therefore, I give limited weight to this consideration.
59. However, in terms of the likely timescale for delivery of a facility at Court Lodge, the infrastructure necessary to facilitate delivery on this part of the site is not in place. The Council were unable to provide evidence for me to question the veracity of the appellant's assertion that there is no realistic prospect of a health facility before 2027. In light of the short-term need for a new facility, this site cannot be relied upon as an alternative.

¹⁷ Up to 231m² potential expansion at KMP as detailed in the evidence given by Dr J Kelly

¹⁸ Policy IMP1 of the Local Plan

¹⁹ See page 40 of the IDP

²⁰ As detailed in Diagram C of the Kingsnorth Medical Practice appeal statement/proof

²¹ Planning application ref – 18/01822/AS

60. In terms of the other main alternative site, a medical facility at Chilmington Green would be unsuitable for several reasons, including concerns over the likely timescale of delivery of the community hub within which the proposal would lie. Crucially however, this site is outside the KMP catchment area and therefore, not an appropriate location. In respect of the other sites considered by the appellant, they do not appear deliverable, and the Council provided me with no assurance to persuade me that they represent realistic alternatives.
61. To conclude, the KMC site does not appear capable of expansion to cater for the future growth of South Ashford. The pressing need to find a suitable site to accommodate an appropriate facility remains unfulfilled. The IDP fails to provide firm proposals to cater for the future growth envisaged in the Local Plan. No updated IDP has been adopted. The alternative sites explored are unsuitable for a variety of reasons. The proposal would provide a new medical centre to serve existing and new patients, allowing for improved care and treatment. It would not undermine the delivery of health facilities within Ashford Borough, and I attribute the benefits of the healthcare facilities proposed substantial weight, a matter I shall return to in the 'planning balance'.

Other Matters

62. The Council's reasons for refusal originally included concerns over highway safety. However, prior to the Hearing these matters were largely resolved between the appellant and Kent County Council. It has not been necessary for me to pursue this matter further given that I am dismissing the appeal for the reasons set out.

Planning Balance and Conclusion

63. The Council has acknowledged that it currently is unable to demonstrate a 5-year supply of deliverable housing sites. However, there is dispute between the main parties over the precise position, with a relatively recent appeal decision referenced by the appellant finding a supply of approximately 3.5 years²², less than the Council's position of 4.54 years²³. I was provided with limited evidence as to why I should not regard the figure within the appeal decision as being the most relevant given the Council's housing position statement pre-dates it.
64. In any event, in circumstances where a five year supply cannot be demonstrated, the presumption in favour of sustainable development set out in paragraph 11d)ii of the Framework would ordinarily apply. However, the proposal would harm the integrity of Stodmarsh habitats sites, and this in itself is a clear reason for refusing permission. As such, reflecting paragraph 11d)i and paragraph 182 of the Framework, the presumption in favour does not apply in this case. This is an important material consideration.
65. The appeal site lies outside the settlement boundary and on an area of land identified as 'green buffer' as part of the site-specific allocation. The proposal would, therefore, be outside an area where the Local Plan focuses growth and would be a form of urban encroachment, diminishing the extent of the green buffer which is currently open and undeveloped. Nevertheless, the scheme's impact would be contained, and a large proportion of the green buffer would be

²² Appeal ref - APP/E2205/W/21/3284479

²³ Position Statement 31st July 2021

retained, landscape impacts would be limited, and the resultant visual effects would be localised. The moderate harm to the character and appearance of the area I have identified means that I apply moderate weight to the conflict with policies SP1, SP2, S4, SP6, HOU5, SP7 and EMP1 of the Local Plan.

66. In respect of benefits associated with the proposal, the additional homes would align with the Framework's emphasis on boosting housing supply. Despite the relatively small number proposed, the Council are unable to demonstrate a five year supply of deliverable sites. As such, this matter carries significant weight in favour.
67. By the Council's own admission, the provision of health care facilities would be beneficial. Moreover, I have found that there is a pressing and urgent need for health care facilities in the area, and no alternative sites have been demonstrated as deliverable in the short term. The proposal would not only cater for existing residents and patients, but also future occupiers as a result of new housing developments envisaged in the Local Plan. As a result, these benefits carry substantial weight.
68. There would also be additional employment opportunities as part of the proposal due to the new medical facilities, as well as related education and training. These matters attract significant weight in favour.
69. The proposal would provide a relatively small number of affordable homes. It would provide temporary jobs during the construction phase and future occupiers would make both direct and indirect contributions to the local economy. The proposal could incorporate extensive areas of public open space and landscaping, as well as biodiversity enhancement. This would also benefit existing residents in the locality. Moreover, these areas could be designed to benefit pedestrian and cycle connectivity in the area. All these matters each attract moderate weight in favour.
70. In conclusion, there would be some conflict with policies as set out, mainly relating to the scheme's green buffer location, and the impact on character and appearance, and conflict with the development plan overall. When weighed against the combined substantial benefits including the Council's housing land supply position this harm would be outweighed by the benefits. However, the scheme would adversely affect the integrity of Stodmarsh habitats sites and I have found that policies in the Framework that protect habitats sites provide a clear reason for refusing the development. Therefore, the appeal is dismissed.

M Woodward

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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INTERESTED PARTIES:

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Kingsnorth Parish Council and Councillor for Washford Farm