



Appeal Decision

Site visit made on 24 July 2025

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th of October 2025

Appeal Ref: APP/E2205/W/25/3363179

Former Science Buildings, Olantigh Road, Wye TN25 5EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Damien Molony of Tele Property Investments Ltd against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/0294.
 - The development proposed is demolition of former educational buildings and the redevelopment of the site to provide 11 family homes, together with access and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on biodiversity;
 - ii) the effect of the development on the character and appearance of the area including the National Landscape;
 - iii) whether the development would provide a suitable mix of housing; and
 - iv) whether the proposal would provide acceptable living conditions for its future occupiers in respect of the outdoor amenity space.

Reasons

Biodiversity

3. Stodmarsh Lakes is a European habitat site designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC), a Ramsar site and a Site of Specific Scientific Interest (SSSI). The qualifying features include Bearded tit, Great Bittern, Gadwall, Shoveler, Hen Harrier, Desmoulin's whorl snail, waterbird assemblage, breeding bird assemblage, wetland plant assemblage and wetland invertebrate assemblage.
4. Though I understand Stodmarsh Lakes are some distance away from the appeal site, the river Stour feeds into them and the appeal site falls within the catchment of that river. Therefore the site is hydrologically connected to Stodmarsh Lakes. Natural England (NE) have advised that nitrogen and phosphorous levels in Stodmarsh Lakes are already excessive, and so they are therefore in an unfavourable condition.
5. Surface water and waste water from the development could increase nitrogen and phosphorus levels in the Stour catchment which could subsequently affect

Stodmarsh Lakes and the qualifying features identified. As such I cannot conclude the development would not be likely to have significant effects on the qualifying features. This is consistent with the appellant's shadow Habitat Regulation Assessment (dated 5 September 2025). As the competent authority, I am therefore required to conduct an Appropriate Assessment.

6. The appellant has proposed a number of measures to mitigate the effect of the development set out in a Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) (dated 25 February 2025). This includes an on-site package treatment plant (PTP), the removal of surface water from the sewer network by a sustainable drainage system (SuDS), and the conversion of a plot of land elsewhere, but nearby, to a less nutrient intensive use. NE have been consulted on these measures and although agree there is potential for the mitigation to be sufficient, they have some unresolved concerns at the current time.
7. In respect of the PTP, NE consider there is insufficient evidence to demonstrate that the proposed Waterloo WaterNOx-LS filtration system can achieve the 95% nitrogen removal rate it claims. As such they suggest the final effluent concentration level should be considered to be higher. If the concentrations of nutrients are higher than that on which the NNAMS is based, the proposed mitigation may not be sufficient.
8. There is also disagreement between the parties regarding which CIRIA guidance document is more appropriate, particularly with respect to the effectiveness of SuDS in reducing nitrogen in surface water. Moreover, whilst the appellant suggests that their approach has been accepted on a different site nearby, NE dispute this. In light of this, I cannot be satisfied that their objection has been adequately addressed. As above, if the nitrogen removal rate of the SuDS is not that which the NNAMS is based on, it fails to demonstrate that nitrogen would be sufficiently mitigated.
9. In response the appellant has suggested that even if the effect of the PTP and SuDS is removed from the calculations, a greater area of off-site mitigation could simply be provided. The current proposal is for an area of land measuring 152m² to be taken out of agricultural production as compensation. At the time of my site visit that land did appear to be covered in ruderal vegetation, and the appellant confirms it has been fallow for two growing seasons already. This land comprises a small strip within a larger field which is owned by the appellant, and it would be straightforward to set aside more of the field as compensation. Indeed, from the calculations provided, were the whole field fallowed, this could provide more than three times the required nutrient mitigation even excluding the possible effect of the PTP and SuDS.
10. However, NE highlight that even if a sufficient area of the field could be fallowed, it would still take time for the benefits of this to be realised at Stodmarsh Lakes. This is not disputed by the appellant. NE suggest that in other developments locally, the benefits of fallowing will not reach Stodmarsh Lakes for more than 18 years, though they provide little evidence to support this.
11. The appellants advise that it is unlikely that the proposed dwellings would be occupied until 2027, and so when added to the time the field has already been fallow for, that would mean the field has been fallow for a substantial amount of time. Nonetheless, I have no substantive evidence before me to demonstrate that

this length of time would be sufficient for the land to be able to mitigate the nutrients generated by the proposal at that point.

12. As an alternative the appellant indicates that it would be possible to purchase nutrient credits at a third party scheme. However without further details of such a scheme or whether there are credits available, I could not be confident that this would be an effective method of mitigating harm. It would not be appropriate to defer such a fundamental issue to a condition, such as that suggested by the appellant, which would not be sufficiently precise.
13. Overall, although, during the determination of this appeal, correspondence has continued between the appellant and NE in an attempt to resolve the above issues, it is clear that some work remains to be done. In its current state I cannot be satisfied that the development would not be likely to have an adverse effect on the integrity of the European sites.
14. Consequently I cannot conclude the development would accord with policy ENV1 of the Ashford Local Plan 2019 (the ALP) which seeks to ensure that biodiversity is protected, and policy WNP8 of the Wye Neighbourhood Development Plan (WNDP) which states that development should address ecological impacts. Similarly I cannot conclude the proposal would accord with ALP policy ENV9 which aims to avoid any adverse impact on water quality.

Character and appearance

15. Wye is a small village surrounded by open countryside. The site is positioned towards the edge of the settlement with undeveloped land to the west and houses to the east. There are public footpaths that run along the north and west boundaries of the site. The site accommodates a number of former school buildings which are generally single or two storeys in height, flat roofed and linear in shape. Indeed the buildings stretch for almost the whole of the site's Olantigh Road frontage. These buildings are part of a wider complex of former school buildings on Olantigh Road. Those to the south are currently being converted to dwellings, while those to the north are subject of applications for conversion. The houses opposite are two storey, pitched roof, and mostly semi-detached, but with detached houses at Nos 8, 14 and 36.
16. Along the site frontage the development would provide three detached houses and a pair of semi-detached units, all of which would be two-storeys with hipped roofs. This would generally echo the form of the houses along Olantigh Road. The semi-detached pair at units 1 and 2 would have their front doors facing Olantigh Road, and would be finished in red brick at ground floor level and clay facia tiles at first floor level. This would reflect the form and materials in the terrace of properties at Nos 1-4 and the dwelling opposite at No 14.
17. The two houses proposed at units 3 and 4 would flank the access road into the centre of the site and would address that road rather than the main road. However their front elevations would still be visible from Olantigh Road and the side elevations that would front Olantigh Road would not be inactive, particularly as their parking would be here. They would also be finished in red brick on both storeys with clay tile roofs. Although the bricks used in the semi-detached houses opposite are yellow, and where red bricks are used on other houses in the road they are only used at ground floor level, I do not consider the finish at units 3 and 4 would be unacceptably jarring with the appearance of the street scene. It is also noted that

the existing buildings on site are primarily red brick. Final colours of the materials could be secured by a condition.

18. The front of the house at unit 5 would face towards the public footpath and the vehicular access that serves a house and a farm to the northwest. Although there are a few trees in this corner of the site that would partly obscure views of this dwelling, the openness at this junction means the front elevation of the house would be clearly visible in the Olantigh Road street scene, particularly when approaching the village from the north. The house at this unit would be finished in black weatherboarding, which has been used on some of the new buildings being erected on the adjacent land to the south.
19. The houses at units 1, 3 and 4 would have attached garages to their sides. Such features are not uncommon, and there are other houses on Olantigh Road with comparable garages or 1½ storey side elements. Similarly though there is little variation in the height of the houses, this would also reflect the semi-detached houses opposite which are of a uniform height.
20. Overall I consider the frontage dwellings would have an acceptable design given the variety of designs of the other houses in the street, the existing building on the site and the development taking place on the adjacent site. Indeed, their residential form and design would contrast less with the dwellings opposite than the existing buildings on the site and so would provide a more cohesive character on this part of this main approach into the village, in the same way that the former school buildings to the north have a cohesive relationship with the current school building opposite.
21. Units 7-11 would be detached dwellings positioned along the back of the site. There would be spaces between the buildings and there would be 1½ storey elements on all the houses which would assist in ensuring the houses appear as distinct units. The front gardens would not be substantial, but they would allow for some room for planting, and there would also be room for planting on the corners behind unit 4 and to the side of units 3 and 6. Furthermore there would be an adequate distance between the dwellings at units 3 and 6 to ensure there would not be a cramped or contrived character. Indeed, I understand the development would have a density of 21 dwellings per hectare which would accord with policy WNP10 of the WNDP. The policy does allow for lower densities on the edge of the village but does not discourage densities such as that proposed.
22. Despite its proximity to the site, views from the public footpath to the west would be limited by the thick, mature boundary hedge. Likewise, views from the public footpath that runs along the north boundary of the site and then heads off to the northwest, would be limited by the topography and the hedgerows along the boundary of the allotments. Any views from the allotments would be similarly limited, and in any case, from here, the dwellings would be seen alongside the development to its south. There would be very limited views of the houses from the churchyard due to the trees within the churchyard and the development on the land to the south of the appeal site. In summary, longer distance views of the development would be limited and the proposal would primarily be seen in the context of the houses opposite and the residential development to its south. There would therefore be no harm to the Kent Downs National Landscape.

23. The converted historic buildings to the south are unique and separated from the appeal site by the terrace at Nos 1-4 and the long low buildings behind. These assist in weakening the visual relationship with the historic buildings and hence negate any effect of the proposal on them.
24. The pattern of a cul-de-sacs behind frontage development is not seen elsewhere in Olantigh Road. Nonetheless it is not an uncommon feature in Wye with there being cul-de-sacs at Dennes Mill Close and Havillands Place, and it is a reasonable design response to a site of this depth. The pattern is clearly different to the existing buildings on the site and those to the south that have been converted to accommodation. But the Council accept the existing buildings on the appeal site cannot be converted, and by providing detached and semi-detached dwellings, the pattern more closely reflects development in the wider context.
25. Consequently, the development as a whole would not unacceptably harm the character and appearance of the area including the National Landscape. The proposal would therefore accord with ALP policies SP1, SP6, HOU3a and policy WNP2 of the WNDP which together seek to ensure high quality design which responds to the prevailing character, density and distinctiveness of the area. It would also comply with ALP policy ENV3b and WNDP policy WNP8 which both require development to respect the special qualities of the Kent Downs AONB, and WNDP policy WNP1c which seeks to ensure development does not detract from important views. I find no conflict with ALP policies SP2, which refers to Council housing targets, or ENV4, which seeks to limit light pollution.

Housing mix

26. The 11 houses proposed would comprise three 3-bed units, five 4-bed units and three 5-bed units. The Council suggest more 3-bed houses should be provided but provide no substantive reason for this. Indeed ALP policy HOU18 merely requires the mix to meet local needs, and I have no evidence before me to demonstrate the provision of 3, 4 and 5-bed houses would not meet local needs. Furthermore, it is understood the conversion of the historic buildings to the south will provide 29 2-bed units and two 1-bed units, so if there is a need for smaller units locally, that development would provide a substantial contribution to that. As such the proposal would not conflict with ALP policies HOU18 and SP1 which both seek to ensure development provides a mix of housing types to meet the needs of the Borough.

Living conditions

27. Policy HOU15 of the ALP states that the size of private gardens for houses should be the width of the dwelling x 10 metres, though can be applied flexibly. Not all the houses have rear gardens that are at least 10m deep, and the Council are concerned that the gardens at units 5 and 7 – 11 are insufficient.
28. However for all these units, the gardens are wider than the houses. The appellant has provided calculations demonstrating that, even if the balconies and the areas to the side of the dwellings are not included, the rear gardens meet the required area set out in the policy. The calculation also accounts for the retained substation at plot 7 and it is noted that only a small part of the garden at plot 7 would have a depth of around 6m. Moreover, the calculations make an allowance of 75cm for the depth of the hedge which runs along the western boundary. From my site visit, I consider this to be reasonable given part of the hedge is also beyond the site boundary.

29. Even if the policy does intend to ensure gardens are at least 10m deep, the inclusion in the policy for the standard to be applied flexibly would mean that wider, albeit shallower gardens, could be satisfactory. In this case I consider that the gardens would provide sufficient space for occupiers to carry out typical outdoor activities such as drying clothes, sitting out and for children to play. The development would therefore accord with policy HOU15 as set out above. There is no reason to consider the hedge would be lost and therefore the development would also accord with ALP policy ENV5 which seeks to protect landscape features.

Other Matters

30. A completed unilateral undertaking was provided during the determination of the appeal in order to address a reason for refusal. This purports to provide contributions towards a host of local services including children's play space, green space, indoor and outdoor sports, cemeteries, secondary and SEND schools. However as I am dismissing the appeal for other reasons, I need not consider this undertaking further. This is because the measures would only mitigate harm generated by the development. It therefore cannot count in favour of the proposal and so cannot have any determinative effect on the appeal. It would also secure the use of the nearby field in order to provide nutrient neutrality, which I have addressed above, and so would also mitigate that harm rather than be a positive benefit.
31. The Council accept they cannot demonstrate a sufficient supply of housing land, stating it is around 4.39 years. This is only a modest shortfall. Nonetheless, paragraph 11 d) of the Framework is engaged. However this identifies that planning permission should be granted unless the policies in the Framework that protect areas of particular importance provide a strong reason for refusing the development. Habitat sites and SSSIs are areas of particular importance, and paragraphs 193 to 195 of the Framework state that development that would adversely affect such sites should be refused. This gives a strong reason for refusing planning permission and the presumption in favour of sustainable development does therefore not apply.
32. Notwithstanding this, the benefit of 11 homes at a time when the Council has a shortfall is a significant benefit. Moreover, the reuse of this previously developed site would be supported by chapter 11 of the Framework. Also, the site is close to the services and facilities within Wye and would assist in improving the appearance of the site given the vacant state of the existing buildings. There would also be some economic benefits both during construction and when occupied, and there would be a significant biodiversity net gain on the site, despite there being no statutory need in this case.
33. A number of interested parties have raised concerns other than those I have addressed above. As I am dismissing the appeal I need not consider them further as they could have no determinative effect on my decision.

Conclusion

34. Although the development would not harm the character and appearance of the area, would provide an appropriate housing mix and would provide acceptable living conditions for its future residents, I cannot be certain that it would not have an adverse impact on the integrity of the Stodmarsh Lakes European site. This carries

very substantial weight, and the other benefits set out above do not outweigh that adverse impact.

35. As such, for the reasons given above, the proposal would conflict with the development plan taken as a whole and there are no other material considerations that indicate a decision other than in accordance with the development plan. Consequently the appeal should be dismissed.

A Owen

INSPECTOR

Richborough