



## Appeal Decision

Site visit made on 17 September 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> October 2025

**Appeal Ref: APP/X2220/W/24/3357870**

**Land South West Of St Edmunds Road, Deal, Kent CT14 9UQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
- The appeal is made by Mr C Sherlock-Scougall of Clague Architects against the decision of Dover District Council.
- The application Ref is 24/00170.
- The development proposed is outline planning application for the erection of 23 houses and associated parking and infrastructure; with all matters reserved except access.

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr C Sherlock-Scougall of Clague Architects against Dover District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. In the banner heading above, I have taken the site address from the Council's decision notice as opposed to the planning application form. The address used coincides with that stated on the appellant's appeal form which is the same used by the Council for publication and notification purposes. Therefore, I am satisfied that no one has been prejudiced by the site address used.
4. The application was submitted in outline form with details of the access being proposed for approval, with all other matters being reserved for future consideration. Therefore, insofar as those details are shown on the submitted drawings and documents, I have treated them as illustrative only and showing one option as to how the proposed scheme could be developed.
5. The Dover District Local Plan to 2040, ("the DDLP") was adopted during the intervening period between the refusal of planning permission and the lodging of the appeal. Therefore, the policies of the previous and now replaced development plan that are listed in the Council's reasons for refusal, form no part of my determination of the appeal as they were replaced by the DDLP.
6. A completed and executed Section 106 Agreement ("the S106") has been submitted with the appeal to address the effects of the development on infrastructure, and includes a financial contribution towards the District Council's mitigation strategy for the Thanet Coast and Sandwich Bay Special Protection Area (SPA). As such the Council is no longer defending the second refusal reason.

The District Council and County Council are satisfied that the planning obligations meet the tests in Paragraph 58 of the National Planning Policy Framework (“the Framework”), and on the information before me I have no basis to disagree.

7. The appeal site is adjacent to the Mongeham Road, Great Mongeham Conservation Area (“the CA”). Based on the evidence before me, including the appellant’s Heritage Impact Assessment (HIA), the proposed development would affect the CA through development within its setting, and this is reflected in my main issues below.

## **Main Issues**

8. The main issues in this appeal are the effect of the proposed development on the character and appearance of the area, and on the setting of the CA.

## **Reasons**

### *Character and appearance*

9. The appeal site is a grass field used for horse grazing that adjoins residential development on St Edmunds Road and Mongeham Road, and undeveloped land towards the southeast and southwest, consisting mostly of arable fields. Public Rights of Way (PRoW) cross the appeal site and continue across the large adjoining arable fields and into the settlement.
10. For the purposes of the Dover District Landscape Character Assessment 2020 (“the DDLCA”), the appeal site is situated within Landscape Character Area (LCA) F3 Ripple, the key characteristics of which include its large-scale arable landscape with expansive views out and over the area.
11. The appeal site has an open and verdantly rural character and appearance that contributes positively to the rural landscape to the south of Deal. The relative commonness of horse grazing pasture around settlements does not diminish the appeal site’s contribution in that regard. The wheeled horsebox vehicles and thin profiled electric fencing have a negligible effect on the appeal site’s character and appearance, which I do not regard as domesticated.
12. The DDLCA operates as a strategic scale landscape assessment establishing high level characteristics, sensitivities and guidelines. Amongst the LCA’s key sensitivities and values are the scattered pattern of historic villages recognised through designation as Conservation Areas, including Great Mongeham (GM). Development management guidelines include conserving the rural character of the landscape, maintaining the setting of GM, sensitively managing new development at upper Deal, and ensuring a sensitive and integrated edge with the farmland.
13. In my judgement, the LCA’s reference to ‘arable’ in the characteristics of F3 Ripple, does not preclude the conditions at the appeal site from contributing positively to the open and rural character of the landscape, nor to the setting of GM and the CA, which I deal with in my second main issue.
14. The proposed development of 23 dwellings and their infrastructure, as shown on the indicative drawings, would significantly diminish the open and rural character and appearance of the appeal site. The presence of the existing built development on St Edmunds Road would lessen the appeal site’s sensitivity to that change, and the existing hedgerows would be retained and supplemented with new planting.

Nonetheless, the presence of the proposed development would, in my judgement, have a moderate adverse effect on the rural and open landscape character on the edge of the settlement.

15. The appellant's LVIA identified that the proposed development would result in adverse visual effects from public Viewpoints 1 – 6, albeit reducing after planting has established. Therefore, the development would still result in adverse effects even with the proposed mitigatory planting, including sensitive receptors using the PRowS for recreation and enjoyment of the countryside and landscape. It shows the greatest adverse visual impacts would be on users of the PRowS from Viewpoints 5 and 6, where they would be major adverse without mitigation planting but reducing to moderate and slightly adverse effects once established. I agree that the greatest visual effects would be from those viewpoints.
16. However, given the scale and spread of development shown on the indicative drawings, it is my judgement that the mitigation planting indicated would take several years to grow sufficiently tall and thick to provide meaningful screening or softening of the appeal development. Over such an extended period there would be more than a degree of uncertainty that the planting would establish to the extent indicated by the appellant. Planting can fail and that within gardens as suggested can be vulnerable to being thinned/reduced, and in any case the effect of planting would likely diminish for several months of the year around winter. Therefore, whilst the planting would be expected to soften and filter the appearance of the proposed development, I am not satisfied on the evidence before me that it would form an impenetrable buffer in the long-term, nor would it make the development of 23 homes congruent with the surrounding landscape character.
17. Moreover, even with the establishment of the mitigation planting to infill the wide gaps in the fragmented southeastern boundary, the boundary planting would be relatively narrow by comparison to the size of the appeal site. Therefore, given the expected sizes of the buildings and their spread across the site, it is my judgement that users of the PRow from Viewpoint 6 would have relatively clear elevated views looking down towards the development and over the boundary planting. In those views they would experience the proposed development's urbanising effect on the area's open and rural character. The gaps in the boundary where the PRowS intersect with the appeal site would be expected to permit further views into the development.
18. Given the open character of the adjoining fields and the relative absence of views of existing buildings on Mongeham Road, the appeal development would be experienced from Viewpoint 6 as a sizeable linear protrusion of built form into the countryside beyond the edge of the settlement. Even accounting for the mitigation planting and the appeal development's low density, the proposed development would appear as a visually harmful intrusion into the surrounding open and rural landscape. Whilst seen with the existing built edge of Deal, the scale and spread of development, and the degree of change to the landscape, would in my judgement result in moderate adverse visual effects.
19. Views of the appeal site from the PRow at Viewpoint 5, are at a lower level towards the fragmented hedgerow defining the appeal site's southeast boundary. There would also be closer distance views from the PRow near to where it intersects with the appeal site. In my judgement, even with mitigation planting

established, the proposed development would be expected to be visible above the planting and through the gaps in the boundaries where the PROWs extend through, given its likely scale and spread. Again, the effects of planting would likely diminish for several months of the year around winter. Consequently, users of the PROW from around viewpoint 5 and closer would experience the urbanising effect of the proposed development as a visually harmful intrusion of built development into the rural landscape.

20. In bringing these points together, it is my judgement for the reasons I have given above that the effect of the proposed development on landscape character would be moderately adverse, and it would appear as a harmful visual intrusion of built development into the countryside. That the appeal site is not part of a protected landscape does not alter my conclusion that the development would result in landscape and visual harm. Change does not necessarily equate to harm, but it would in this instance for the reasons given above.
21. The requirement in the DDLP for landscape buffers on development adjoining open countryside does not mean that all developments that meet that criterion will be acceptable. The hard built edge of Deal is extensive and seen across a very wide vista from a range of public views. Therefore, the proposed mitigation planting would make a negligible contribution to softening that built edge.
22. For the reasons given above, the appeal development would be a harmful visual intrusion into the countryside, resulting in moderate adverse effects on landscape character and visual impact. Therefore, it cannot be said that the appeal development would conserve and enhance landscape character contrary to DDLP Policy SP4(d) and paragraph 187 of the Framework regarding the recognition of the countryside's intrinsic character and beauty.
23. DDLP Policy NE2 requires development to demonstrate particular regard to the DDLCA. I have found the proposed development to harm the open and rural landscape of the F3 Ripple LCA, and therefore I find conflict with that Policy when read as a whole.

#### *Conservation Area*

24. The CA is characterised by a linear pattern of ribbon development alongside the Mongeham Road and set within rural surroundings of fields and woodlands. It consists of buildings that are generally set close to the road, including a sizeable proportion of traditional buildings, occupying well planted and relatively long plots. The significance of the CA is therefore largely derived from the relationship between those elements, which reflect the historic pattern, origins and evolution of the rural settlement.
25. The land on the south side of Mongeham Road is generally comprised of open land of rural character that is free of development and contributes positively to the rural setting of the CA, reinforcing the legibility of its historic linear settlement pattern. The appeal site, which is free from development, is a component part of the land adjoining the CA, and its open and rural qualities make a positive contribution to its setting and thus its significance as a designated heritage asset. This is apparent and experienced from public vantage points, including the PROWs that cross the appeal site and extend into the CA. Whilst the HIA identifies the CA as included in Historic England's heritage at risk register and in very bad condition,

I have no basis to find that the CA's rural setting or the conditions at the appeal site contribute to this.

26. The development of 23 houses and infrastructure on the appeal site would erode a sizeable part of the undeveloped rural setting of the CA, bringing the spread of built development closer to it. The proposed planting would be expected to filter views between the appeal development and the CA. However, given their close relationship and intervisibility, it would not in my judgement form an impenetrable barrier to views between them. Furthermore, it would not address the close spatial relationship between the built development and the CA, even accounting for a layout that would be expected to include spacious gardens alongside the CA's boundary.
27. Consequently, the proposed development would harmfully affect the experience of the CA's historic linear settlement pattern within its rural surroundings, thus resulting in harm to the setting and significance of the CA as a designated heritage asset. For the reasons given above, I am not satisfied in this instance that the harm to the CA from the quantum of development proposed in this appeal could be designed out through a reserved matters scheme.
28. For those reasons the proposed development would be inconsistent with the management guidelines for LCA F3 Ripple, insofar as it seeks to maintain the rural character and setting of GM. There would be conflict with DDLP Policy SP4(e) insofar as it requires development to preserve or enhance any heritage assets within its setting.
29. In this instance the harm to the significance of the CA would, in the language of the Framework, be 'less than substantial' and on the lower end of the spectrum of that harm. Whilst less than substantial, the Framework paragraph 212 requires great weight to be given to the conservation of heritage assets which are irreplaceable. Paragraph 215 of the Framework states that such harm should be weighed against the public benefits of the proposal. I will return to that in the planning balances section later in my decision.

### **Other Matters**

30. The appeal site adjoins the settlement confines of the built form of Deal where windfall housing will be permitted by DDLP Policy SP4, subject to all the Policy's criteria being met. In that regard, the Policy's criteria functions to filter out acceptable forms of windfall development from those with unacceptable impacts, and it does not mandate approval of all windfall development.
31. For the reasons given above, the appeal development conflicts with criteria in d) and e) of DDLP Policy SP4. Even if I were to agree that no conflicts would arise with any of the other criteria of the Policy, an absence of harm in those respects would be neutral factors that would not weigh positively in favour of the appeal development. Therefore, I conclude that appeal development's harmful effects bring it into conflict with DDLP Policy SP4 when read as a whole, and also DDLP Policy NE2. Those policy conflicts are important matters that bring the development into conflict with the development plan as a whole.
32. The Council's current housing supply and record of delivery are meeting the Government's objective of significantly boosting the supply of homes. Therefore Paragraph 11 of the Framework is not relevant in this instance. Whilst maintaining

a supply of housing is an important matter and there is no ceiling on planning permissions or supply, the evidence before me does not demonstrate that dismissing the appeal would result in a future undersupply against the requirement. The DDLP sets out how the remaining housing growth not already identified at the main settlements of Dover, Deal and Sandwich is planned to be delivered through the strategic expansion of Aylesham.

33. The appeal development would be expected to provide for a mix of housing types and tenures. This would include market and affordable housing with an element of first homes, along with self-build and custom build housing. The Framework provides support for those who wish to build their own home to help diversify the housing market and increase customer choice.
34. The appellant's evidence indicates that only a small number of self-build plots had been granted permission by the Council in the period from 2016-2021, despite a far greater number of entries on the self-build register in that period. The S106 before me does not appear to include a suitable mechanism for securing self-build housing. Nonetheless, the proposed development's provision of homes of mixed tenures and diversified types would be a benefit that carries weight of a high order in its favour.
35. It is realistic to suppose that it could be built out quickly to deliver those homes and benefit the economy through construction and employment, with future occupants supporting local shops, facilities and services, and contributing to taxation receipts. Residents would likely to play a positive social role in the local community. Given the size and type of the appeal development those benefits attract moderate weight in its favour.
36. The evidence before me does not indicate any persistent flooding problems in the area and therefore limited weight attaches to a reduction in surface water run-off. Although the S106 is intended to mitigate the effects of the development on infrastructure, including on the SPA, some small benefits to the wider community could arise through service improvement, including the provision of public open space and enhancement to the PRoWs across the site.
37. The proposed development could be energy efficient and achieve a net gain in biodiversity, including through ecological enhancements and planting in the landscape buffers, weighing modestly in its favour as an environmental benefit. However, in totality there would be environmental harms from the development on the character and appearance of the area and to the CA.
38. The appellant's HIA covers a number of designated heritage assets in the area, including the Grade II\* listed Church of St Martin, the tower of which is visible in conjunction with the appeal site, as I saw at my visit. No change to the Church's setting or harm to its special interest are identified by the appellant and the Council. Nonetheless, it is not necessary for me to come to a view on the setting of the Church as it would not alter the outcome of the appeal, which I am dismissing for other reasons.

## **Planning balances and Conclusion**

39. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost, including through development

within its setting. Heritage assets are irreplaceable. Clear and convincing justification is required for any harm or loss. Therefore, the appeal proposal's less than 'substantial harm' to the CA, even at the lower end of that spectrum of harm, is a matter of considerable importance and weight.

40. The public benefits of the proposed development carry weight of a high order in favour of the appeal development. However, they do not outweigh the proposed development's harmful effect on the setting of the CA as a designated heritage asset, which is a matter of considerable importance and weight. It follows that those benefits do not outweigh the totality of the harm to the CA and the harm to the character and appearance of the area. Those harms bring the development into conflict with DDLP Policies SP4 and NE2, and the development plan as a whole. There would also be conflict with the policies of the Framework that seek to protect the historic environment and recognise the countryside's intrinsic character and beauty.
41. Taking all the above into account, the material considerations, including the provisions of the Framework, are insufficient to outweigh the conflict with the development plan. Accordingly, I conclude that the appeal proposal is unacceptable, and the appeal should be dismissed.

*G Sylvester*

INSPECTOR



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## Costs Decision

Site visit made on 17 September 2025

**by G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> October 2025

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### **Costs application in relation to Appeal Ref: APP/X2220/W/24/3357870**

#### **Land South West Of St Edmunds Road, Deal, Kent CT14 9UQ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr C Sherlock-Scougall of Clague Architects for a full award of costs against Dover District Council.
  - The appeal was against the refusal of planning permission for outline planning application for the erection of 23 houses and associated parking and infrastructure; with all matters reserved except access.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Behaviour that may give rise to a substantive award of costs includes where a local planning authority has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The Council's decision on the appeal proposal was different to that recommended by planning officers in the committee report. The Council is not required to accept the advice of its officers and is entitled to exercise its own planning judgement and reach a different conclusion. However, if a different conclusion is reached, the Council must explain why a proposal is unacceptable on planning grounds and adequately substantiate its reasons for doing so.
4. Whether or not the appeal development would harm the character or appearance of the area is a matter of planning judgement for the decision maker and involves a degree of subjective judgement. The applicant says the Council's decision to depart from the recommendation by planning officers and refuse planning permission on the grounds of visual harm on the countryside has not been properly substantiated through a thorough analysis.
5. The reason for refusal and appeal statement of case show that the Council made its assessment based on an understanding of the scale of the development and the existing conditions at the appeal site and its surroundings, including their visibility from public vantage points. They contain adequate reasoning and assessment as to how the conditions at the appeal site and its surroundings would change and be affected by development of the scale proposed, including from public vantage

- points. To inform that judgement it had before it a range of evidence including indicative drawings showing the likely scale of development and the applicants Landscape and Visual Impact Assessment (LVIA), showing photographs of the site in its surroundings. Therefore, I am satisfied that the Council has adequately substantiated its judgement that the appeal development would harm the character and appearance of the countryside and landscape.
6. The Council's was entitled to apply its judgement to the evidence before it and was under no compulsion to seek its own advice from an equivalent landscape consultant or architect. It is relevant that the applicant's LVIA also identified adverse effects, and in my main decision I have found the appeal proposal to be harmful to the character and appearance of the area.
  7. For those reasons the Council's planning judgement on the effects of the appeal development on the character and appearance of the countryside and landscape, and the conclusions reached, are adequately substantiated and supported by an objective analysis. They do not amount to vague, generalised or inaccurate assertions of appeal development's its impacts and therefore the judgement it made was not unreasonable the terms set out in the PPG.
  8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*G Sylvester*

INSPECTOR