



Appeal Decision

Site visit made on 29 June 2026

by John Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2026

Appeal Ref: 6005029

Monkton Court Lane, Eythorne, Dover CT15 4BH

- 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 Peter Reed of Pentland Homes Ltd against the decision of Dover District Council.
 - The application Ref is 24/00892.
 - The development proposed is for residential development of up to 24 dwellings, together with all necessary landscaping and infrastructure, with all matters reserved except means of access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission, and the application form makes clear that approval is also sought at this stage for access but not for appearance, landscaping, layout and scale. Drawings have been submitted, which includes showing the parameters of development at the site. I have treated the drawings as being for illustrative purposes and have considered the appeal on this basis.
3. Signed legal agreements dated 4 March 2026 and 23 April 2026 under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted during the appeal process. The obligation concerned provision for affordable housing, local infrastructure, including healthcare, education and open space, and biodiversity net gain. I shall return to the legal agreement later in my decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the provision of best and most versatile agricultural land.

Reasons

Character and appearance

5. The appeal site comprises a large area of land to the side of Monkton Court Lane. On this side of Monkton Court Lane, there is an overtly rural character, typified partly by the large, agricultural fields to the rear of the site. The fields to the rear of the site are on land that rises considerably and emphasise the rural context of the site and the area surrounding the settlement of Eythorne. The largely

undeveloped nature of the site and the limited development to either side, consisting of dwellings within spacious plots bounded by mature trees and vegetation, contributes positively to the prevailing rural character of land on this side of Monkton Court Lane. This is reinforced by the defined and uninterrupted row of vegetation forming the frontage of the site and to the rear boundary.

6. The undulating landform in the area, and the open agricultural fields partly typifies the character of the wider landscape area. The site is within Landscape Character Area 10: Eythorne Arable Mosaic with Parkland and the East Kent Arable Belt Landscape Character Area. The open and rolling landform with large, sweeping arable fields partly define these areas and these characteristics are evident in the area within which the site is located. The site, forming the valley bottom, makes a positive contribution to the overarching character of the surrounding landscape through its open and undeveloped nature. The unbroken hedgerow and soft verge fronting Monkton Court Lane further define the countryside location and rural character of the site.
7. The opposite side of Monkton Court Lane comprises the existing residential development, displaying an overtly urban character emphasised by the pedestrian footway separating the road from properties' frontages. Development typically fronts the road to the rear of gardens and parking areas. The dwellings consist of a variety of styles and material finishes but typically consist of detached buildings. In combination with their set back position and frontages of low brick walls and hedges, development on this side of Monkton Court Lane has a verdant and spacious character that reflects the edge-of-settlement location.
8. The proposal is for up to 24 dwellings at the site. While the scale, layout, appearance and landscaping of the proposal are reserved matters, the submitted parameters plan indicates that the development would be positioned towards Monkton Court Lane with a wide area of landscaping and open space to the rear. The considerable built form, consisting of the dwellings, access roads and associated domestic paraphernalia such as boundary treatments and areas of hardstanding, would spread across the width of the site and would appear as a significant urban incursion into the countryside. The encroachment of the urban form into countryside would harmfully erode the rural character of the site and its surroundings. Moreover, the detachment and limited functional relationship of the development with the main part of the village would mean that it would not successfully integrate with the layout of Eythorne.
9. The proposal includes two vehicular access points from Monkton Court Lane and a passing place to the side of the carriageway. The proposed accesses and passing place would result in a significant loss of the hedgerow and vegetation forming the frontage of the site. While the hedgerow may be repositioned to accommodate the accesses and passing place, the loss of vegetation and the replacement with features of overtly urban characteristics would further erode the verdant frontage and rural character of the site. This would be exacerbated by the presence of the substantial built form to the rear of the retained and repositioned hedgerow.
10. The considerable quantum of development would be clearly appreciable within the foreground of views from Monkton Court Lane and Rose Gardens and would detrimentally contrast with the openness of the sweeping arable fields to the rear. The site is highly visible within the surrounding landscape, particularly on the

approach to Eythorne along Kennels Hill and the nearby public right of way leading from Green Lane. The parameters plan indicates that there would be an area of landscaping and open space towards the rear of the site. The landscaping would provide a buffer between the developable area and the open fields on rising land beyond the rear boundary of the site and would assist in diluting the visual intrusion of the development within the landscape and from visual receptors. However, the extent of built form would be substantial and incongruous within the rural context of the site, and the planting would, over time, provide only limited softening of the development within the landscape and from the identified viewpoints.

11. While the existing development forming Eythorne provides an urban context to the area, the Monkton Court Lane provides a clear visual and distinctive break between the considerable built form of the settlement and the undeveloped open countryside beyond. Despite the screening of planting and the structural buffer over time, the substantial and consolidated nature of the proposal would represent a considerable, harmful encroachment of urban development into the countryside to the detriment of intrinsic character and beauty of the countryside, including the surrounding landscape.
12. I conclude that the proposal would cause significant harm the character and appearance of the area. The development therefore conflicts with Policies SP4, PM1 and NE2 of the Dover District Local Plan 2024 (LP), which collectively amongst other things require that proposals conserve and enhance landscape character and not result in harmful intrusion into the open countryside, demonstrate an understanding and awareness of the context of the area, and have particular regard to the Landscape Character Area.

Agricultural land

13. The parties agree that the land at the appeal site is classified as Grade I agricultural land, which comprises best and most versatile agricultural land. Policy SP4 of the LP supports windfall development where the proposal would not result in the significant loss of best and most versatile agricultural land currently used for agriculture.
14. The development would take place on, and result in the permanent and irreversible loss of, land classified as best and most versatile agricultural land. Nevertheless, the site is currently used for equestrian purposes as a horse paddock following the grant of planning permission¹. Consequently, the site is not currently used for agriculture, and the proposal would not conflict with Policy SP4.
15. I conclude that the proposed development would not result in an unacceptable loss of the best and most versatile agricultural land. The development therefore accords with Policy SP4 in this regard, as set out above.

Planning Obligation

16. The completed section 106 agreement contains a number of obligations. It secures the payment of financial contributions, including in relation to education, healthcare, learning/social care and libraries, children's services, adult social care, waste and sports and recreation facilities. Kent County Council has confirmed that

¹ DOV/16/01356

contributions are no longer being sought towards primary education. The obligation also commits to providing a 30% of the total dwellings as affordable housing.

17. The obligation contains a cascade mechanism in respect of the composition of the on-site affordable housing provision. The appellant indicates that the potential for an alternative tenure split is not related to the viability of providing affordable housing. The cascade mechanism would require the Council's approval to dispose of units as an alternative tenure type in the event that the developer is unable to contract with a Registered Provider (RP) in respect of affordable rented housing units and share ownership units. If the Council agrees to the alternative tenure types of intermediate housing, and there remains an inability to contract with a RP, then the units can be disposed of as any other tenure type defined as intermediate housing.
18. The clause would not require the Council to accept a lesser quantum of affordable housing. The cascades at clauses 8.1.1 and 8.2.1 would aim to retain the tenure split set out in criterion 2 of Policy SP5. However, if the developer is unable to contract with an RP for affordable rented housing units and share ownership units, it is unlikely to be able to do so for alternative tenure types of intermediate housing. Moreover, the additional timeframe required to go through the cascade process would delay the delivery of affordable housing without any certainty that the tenure split could be delivered. Consequently, the clauses 8.1.1 and 8.2.1 are unnecessary in this instance.
19. With regard to the evidence provided, I consider that all of these obligations would be required to address the impacts of the development, and I am satisfied that they would in each case be necessary to make the development acceptable in planning terms, directly related to the development proposed and fairly and reasonably related in scale and kind to it, in accordance with the National Planning Policy Framework (the Framework) and the Community Infrastructure Levy (CIL) Regulations 2010. I have therefore taken these obligations into account in my decision.

Planning Balance

20. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP, with the associated conflict reflecting significant harm to the character and appearance of the area. The development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
21. Notwithstanding the lack of conflict with Policy SP4, the loss of best and most versatile agricultural land would weigh against the proposal. Paragraph 187 of the Framework requires that decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Nevertheless, due to the size of the site relative to the remainder of land in the District, the loss of best and most versatile agricultural land at the site would be limited taking into account the quality of other agricultural land within the wider District.

22. The proposal would make a positive contribution to housing supply with associated social and economic benefits during the period of construction and once the dwellings are occupied. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would include an affordable housing provision in accordance with Policy SP5 of the LP. While there is no substantive evidence before me with regard to the extent of any shortfall of affordable housing in the District, the provision of affordable housing carries weight in favour of the development. However, given the scale of the proposed development, including the affordable housing, the proposal would make a modest contribution to the supply of housing where there is not currently an identified shortfall.
23. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for biodiversity net gain (BNG). Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition (BGC).
24. The objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. The BGC is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development.
25. It is proposed that the BGC would be met primarily through off-site measures including the purchase of off-site credit units. The Council did not have any concerns with this approach. While delivering BNG is a benefit of the proposal, there is no substantive evidence of the extent of the increase in biodiversity value above the minimum of 10% is BNG. Consequently, the weight attached to this benefit is limited.
26. The development would not harm the significance of the Eythorne Conservation Area or the Grade II Registered Park and Garden at Waldershare Park given the position of the site in relation to these assets and the presence of intervening features, including vegetation and existing buildings. It is noteworthy that the Council found similarly in this regard. Nevertheless, the absence of harm is a neutral factor that weighs neither for nor against the proposal.
27. Taking the stated benefits together, collectively there would be moderate benefits associated with the appeal scheme. However, the harm to the character and appearance of the area and the conflict with the development plan would be of greater significance.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

John Pearce

INSPECTOR