



The Planning Inspectorate

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## Appeal Decision

Site visit made on 26 November 2019

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: **11 February 2020**

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**Appeal Ref: W/4000151**

**Land adj to The Old School, London Road, Dunkirk ME13 9LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Woodchurch Property Developments (Dunkirk) Ltd against the decision of Swale Borough Council.
  - The application Ref 19/501668/FULL, dated 28 March 2019, was refused by notice dated 26 June 2019.
  - The development proposed is residential development of 6no. units with associated parking and external works.
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### Decision

1. The appeal is allowed, and planning permission is granted for residential development of 6no. units with associated parking and external works at Land adj to The Old School, London Road, Dunkirk ME13 9LF in accordance with the terms of the application, Ref 19/501668/FULL, dated 28 March 2019, subject to the conditions in the attached schedule.

### Preliminary issue

2. Works have commenced on site in relation to a previous permission granted by the planning authority. The scheme before me would provide an additional dwelling to that previously approved. I am aware of the works that have been carried out, however I have determined this appeal on the basis of this scheme.

### Main Issues

3. The main issues are;
  - (i) the effect of the proposal on the character and appearance of the area having particular regard to the setting of listed buildings;
  - (ii) whether the proposal would provide adequate living conditions for future occupiers; and
  - (iii) the effect on European designated sites.

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## Reasons

### *Character and appearance*

4. The appeal site forms part of the ground surrounding the old village school which is a Grade II listed building converted into residential use, and is near to a World War II Radar mast which is a scheduled monument. This part of the village sits around the school, church and vicarage which established the settlement in the mid nineteenth century. The development currently under construction has reinforced the residential aspect of the setting of the school house and the range of listed buildings in the vicinity, and they are experienced as part of a village setting which is in keeping with their historical function.
5. At present the site is currently being developed pursuant to an extant permission allowing 3 two storey terraced buildings and 2 two storey semi-detached buildings. Since that permission was granted an additional piece of land has been included as part of the site, widening the rear to include an adjacent garage. The proposal would therefore result in an additional dwelling to those currently under construction located on the edge of the site, which I shall refer to as Plot 6 for clarity.
6. The proposal to incorporate six dwellings on the site before me would create two parallel rows of development which would reflect the pattern of the adjacent site and not appear out of character with the area. The removal of the garage, which does little to enhance the setting of the listed building would improve the visual appearance of the scheme when considered in its entirety. Plot 6 would be detached and set a slight distance from the neighbouring Plot 1 on site, which in turn would be set away from the two semi-detached properties at Plots 2 and 3. Overall a good level of space around the built form would be retained, with the view from the public realm retaining long reaching views of the woodland to the rear of the site and preserving the open character of the area of High Landscape Value.
7. The design would reinforce the slightly neo-gothic style of the school building to incorporate traditional materials. The proposal would be some distance from the listed building, and this in addition to the sympathetic design and materials pallet would mean that the proposal would not be visually harmful to the setting of the listed building.
8. With regards to density, whilst I acknowledge that the proposal would increase the density of the site slightly, there is an existing permission of the site for five dwellings. I do not consider that a moderate increase in density as the result of this scheme would conflict with the council's development plan to an extent that would be harmful or warrant refusal of the appeal on those grounds.
9. I find that the proposal would conserve the setting of the listed buildings and ancient monument, through being of a high quality design appropriate to its surroundings which would reflect the characteristics and features of the site and locality. It would therefore comply with Policies ST7, CP4 and DM14 of the Swale Borough Local Plan – Bearing Fruits 2031 (the Local Plan) which collectively require development to enhance the qualities of the existing, historic and natural environment through schemes that are of a scale, design and appearance that is sympathetic to the location.

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10. The proposal would preserve the setting and historic interest of the nearby listed buildings, and as such would comply with Policy DM32 of the Local Plan which requires that special attention is paid to design, and desirability of removing unsightly or negative features. In reaching this conclusion I have given special regard to the desirability of preserving the listed building and its setting, along with features of special architectural and historic interest.

*Living conditions*

11. The rear gardens of Plots 1, 2, 3 and 6 would be relatively short. I am aware that there is additional land to the rear, however the appeal site incorporates the red line as set out in the plans. In any event, the gardens would be relatively wide, with plot 3 benefitting from space to the side of the dwelling.
12. On the basis of the likely level of occupancy and the space within the site I am satisfied that the proposal would provide adequate amenity space for future occupiers. I find that the proposal would comply with Policies CP4 and DM14 of the Local Plan which, amongst other things, seek to ensure development would not cause significant harm to amenity and create comfortable places.

*European designated sites*

13. The appeal site is located in the proximity of the Swale Special Protection Area which is designated due to the international significance of the area for wintering birds, in particular waders and waterfowl. The proposal before me would result in six additional dwellings, and due to the proximity of the appeal site to the SPA it is possible that residents would access the SPA for recreational purposes. Therefore, I find that the appeal proposal would be likely to have a significant effect on the integrity of the SPA due to the increased recreational use generated by the development.
14. In accordance with the Conservation of Habitats and Species Regulations 2017 (the Regulations) I have conducted an Appropriate assessment. I have consulted Natural England and have taken account of the views supplied by it as the Statutory National Conservation Body. The proposal includes a financial contribution, secured by way of unilateral undertaking, that would deliver a payment towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Scheme (the SAMM).
15. Works to mitigate the pressure caused by the proposed development would be carried out by Birdwise, the name of the North Kent SAMM Board, which is a partnership of local authorities, developers and environmental organisations. The Bird Wise North Kent – Mitigation Strategy demonstrates how the payments are calculated, and the nature of the mitigation provided, along with a record of its effectiveness.
16. Having regard to the consultation I am satisfied that, subject to the measure set out in the SAMM, the proposal would not result in harm to the integrity of the SPA.

**Other matters**

17. I have considered the issues raised in relation to highway safety. The appeal site is located on a 30mph road at a section where visibility can be provided in either direction when exiting the site. I am satisfied that subject to compliance with visibility splays the proposal would not pose a risk to highway safety.

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### Conclusion and conditions

18. I have found that the proposal would comply with the development plan when taken as a whole, and therefore the appeal should succeed.
19. I have specified the plans for certainty. I have included conditions relating to landscaping, materials, and joinery work to protect the character of the area and preserve the setting of the listed building. Conditions relating to sustainable construction techniques, water consumption, drainage and cycle storage are necessary to ensure the development is sustainable. Conditions relating to hours of construction and a method statement are necessary to protect amenities of residents during the construction phase. Conditions relating to parking and the retention of visibility splays are necessary to ensure that the proposal does not have an adverse impact on highway safety. Conditions relating to the retention of trees and ecology measures are necessary to protect the ecology value of the site and surrounding area.
20. I have not included conditions relating to electrical services and permitted development as, on the basis of the evidence, I am not satisfied that such conditions are necessary.
21. As works have commenced on site in respect of a similar extant permission, it would not be appropriate in this particular case to require that the details are agreed prior to commencement of any development and I have amended the wording accordingly.
22. For the reasons above, and having regard to all other matters raised, I conclude that the appeal is allowed.

*J Ayres*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
- 2) The development hereby permitted shall be carried out in complete accordance with the following plans:  
  
Drawing numbers 18\_0588\_1000; 18\_0588\_1001; 18\_0588\_1002; 18\_0588\_1003; 18\_0588\_1004; 18\_0588\_1005; 18\_0588\_1006; 18\_0588\_1007; and 18\_0588\_1008.
- 3) No development beyond the construction of foundations of Plot 6 shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic

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installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

- 4) No development beyond the construction of foundations of Plot 6 shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall have been submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.
- 5) Detailed drawings at a suggested scale of 1:5 of all new external joinery work, (which shall be of timber construction) and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the Local Planning Authority before any development beyond the construction of foundations of Plot 6 takes place. The development shall be carried out in accordance with the approved details.
- 6) No development beyond the construction of foundations of Plot 6 shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.
- 8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 9) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:  
  
Monday to Friday 0730 — 1900 hours, Saturdays 0730 — 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.
- 10) The areas shown on the approved drawings as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting

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that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

- 11) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).
- 12) No development beyond the construction of foundations of Plot 6 shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.
- 13) Unless otherwise agreed in writing with the Local Planning Authority no trees shall be removed from the site.
- 14) The sight lines shown on drawing DSGD/14/H01A shall be provided prior to the occupation of the properties hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sightlines.
- 15) No development beyond the construction of foundations of Plot 6 shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. The parking of vehicles of site operatives and visitors.
  - ii. Loading and unloading of plant and materials.
  - iii. Storage of plant and materials used in constructing the development.
  - iv. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - v. Wheel washing facilities.
  - vi. Measures to control the emission of dust and dirt during construction
  - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 16) No development beyond the construction of foundations of Plot 6 shall take place before details of cycle storage (2 cycles per dwelling) shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

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- 17) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.
- 18) No development shall take place in relation to Plot 6 (including any demolition, ground works, site clearance) until an Ecological Design and Management Strategy (EDMS) for the development site has been submitted to and approved in writing by the Local Planning Authority. Upon approval, the details submitted shall be implemented in full accordance with these approved details.

**END OF SCHEDULE**