



22th April 2016

Katy Magnall
Planning and Development Unit
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
TN23 1PL

Dear Ms. Magnall,

Application: 16/00045/AS: Land between Smarden Charter Hall and Weathercock, Smarden.

Outline planning permission for up to 50 residential dwellings including up to 18 affordable units with access and some matters reserved.

As you will know, CPRE Kent is the Kent Branch of the Campaign to Protect Rural England. It is our objective to retain and promote a beautiful and thriving countryside that is valued by everyone and we believe the planning system should protect and enhance the countryside in the public interest for the important contribution it makes to peoples' physical and mental wellbeing, as well as its vital role in feeding the nation. It is our position that local planning authorities should seek to ensure that the impact of development on the countryside, both directly and indirectly, is kept to a minimum and that development is sustainable in accordance with national planning policy.

We have looked very closely at this application and the supporting documentation, and we are familiar with the site. We would like to make the following comments.

General Points

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless other material planning considerations indicate that a different decision should be made. This plan-led approach to development is endorsed and enshrined in the National Planning Policy Framework (NPPF - e.g. as explained in paragraph 196). Consequently, the saved policies in the Ashford Borough Local Plan 2003, the Core Strategy 2008 and the Tenterden and Rural sites DPD 2010 will comprise the primary consideration, though the NPPF and other relevant guidance (including a range of SPD's) will be important material considerations. It is the Council's

The Kent Branch of the Campaign to Protect Rural England exists to promote the beauty, tranquillity and diversity of rural England by encouraging the sustainable use of land and other natural resources in town and country.

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view that it has a 5 year supply of deliverable housing sites, and it is broadly appropriate to determine applications in accordance the development plan.

CPRE Kent notes a comment in the submitted Planning Statement, which states that:

“Gladman considers that the Council is only able to demonstrate a deliverable 5 year supply of 4,808 dwellings. Based on a review of its position, the Council can only show 3.94 -5.5 years of housing land supply against the June 2015 OAN”

As part of its Local Plan Review, Ashford Borough Council has completed an up to date Strategic Housing Market Assessment, dated August 2014. The Council went on to publish a 5 year housing land supply statement (April 2015), which sets out the Council’s land supply position against government guidance, and concluded that the Council had a deliverable 5 year housing land supply.

It is right that the Council should rely on this most up-to-date SHMA, which is based on an appropriate methodology. No doubt the Council will make its monitoring information for the period ending April 2016 available in due course, but CPRE has not seen evidence from the Council to suggest there is no longer a 5 year supply of deliverable housing sites. The Council’s housing supply policies, and for that matter any other policies, should not be considered out of date.

Even if concerns about the ability to demonstrate a 5 year supply were justified, this does not mean that Local Plan policies do not carry weight. A recent Appeal Court judgement of two conjoined appeals¹ clarifies the way in which paragraph 49 of the National Planning Policy Framework is applied. Although the decision seeks to apply a wide interpretation of ‘policies for the supply of housing’ it also clarifies that the absence of a 5 year supply does not mean that policies in an adopted plan do not have weight. The judge stated in Paragraph 46 of the judgement that the:

“policies in paragraph 14 and 49 of the NPPF do not make ‘out-of-date’ policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they describe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision maker. Neither of those paragraphs of the NPPF says that a development plan policy for the supply of housing that is “out-of-date” should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied”.

The applicant makes the following statement in Page 7 of the Planning Statement:

“The presumption in favour of sustainable development set out in national planning policy confirms that in circumstances where there is no deliverable five year supply, the policies of the Development Plan for the supply of housing are out of date and the decision-taking test in §14 of the Framework applies. In the absence of any significant and demonstrable harm capable of outweighing the benefits, the presumption in favour of sustainable development is engaged which confirms that development should be approved ‘without delay’.

This is incorrect. The Council (the decision-maker) must assign an appropriate weight to ‘out of date’ policies and the weight applied will influence the decision.

The NPPF is clear about the commitment to a plan led system and the NPPF does not change the status of the development plan as a starting point for decision-making. It is reasonable to make decisions in

¹ Neutral Citation Number: [2016] EWCA Civ 168 Case No: C1/2015/0583 and C1/2015/0894
Suffolk Coastal DC v Hopkins Homes Ltd and SSCLG; Richborough Estates Partnership LLP v Cheshire East BC and SSCLG [2016] EWCA Civ 168, Jackson, Vos and Lindblom LJ

accordance with the development plan – and in particular give appropriate weight to policies, giving consideration to their degree of consistency with the NPPF. Relevant policies include the following:

Borough Local Plan 2000

GP12 – Protecting the countryside and managing change
 EN9 – Setting and entrances to towns and villages
 EN30 – Nature Conservation

Local Development Framework Core Strategy 2008

CS1 – Guiding principles to development
 CS2 – The Borough wide strategy
 CS6 – The rural settlement hierarchy
 CS9 – Design quality

Tenterden & Rural Sites DPD 2010

TRS1 – Minor Residential Development or Infilling
 TRS2 – New Residential Development Elsewhere
 TRS17 – Landscape character and design
 TRS18 – Important rural features
 TRS19 – Infrastructure provision to serve the needs of new developments

Supplementary Planning Guidance/Documents

Affordable Housing SPD 2009
 Landscape Character SPD 2011
 Dark Skies SPD 2014

The ‘Borough Wide Strategy’ policy (CS1), the ‘Rural Settlement Hierarchy Policy (CS6) and the ‘New Residential Development Elsewhere’ Policy (TSR2), and other relevant policies (including those listed above) direct development to the most sustainable locations. These policies, as well as other adopted policies, agreed by the Council together describe sustainable development for the Ashford Borough.

It is also important to note that work on the emerging Local Plan is well underway, with a Regulation 19 Draft Plan expected to be published early June 2016. Given the timetable for the preparation of this plan, and its imminent publication, it is appropriate for the Council to strongly resist speculative proposals such as these.

Once the emerging Local Plan has been published (and particularly when the consultation responses are made available), Ashford Borough Council will be able to confirm a situation of prematurity². The National Planning Practice Guidance (NPPG) clarifies the circumstances in which prematurity can be used. *Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

Approval of this application would clearly predetermine decisions about the scale and location of development that are most appropriately made through the Local Plan process. The application is a deliberate attempt to pre-empt and undermine the emerging Local Plan, and thus the plan-led approach.

² Of course, this assumes that the Borough Council will continue to pursue a strategy which directs development to the most sustainable and least sensitive locations.

CPRE is concerned that the proposal seeks to pursue matters that should be dealt with through the plan making process and at the Examination in Public. Sites identified through the Local Plan process are subject to the development strategy, consultation and proper scrutiny, including their scale, location and phasing. The Council needs to continue the proper process of sites selection and this is in the public interest.

This site is being considered as part of the call-for-sites process. Gladmans will, no doubt, respond to the sites proposed in the Publication Draft of the Local Plan. This is the appropriate way to proceed.

Specific Points

1. Location –Impact on landscape character

The Ashford Landscape Character Assessment 2009 guidelines recommend that this landscape should be conserved and restored. The landscape has a high sensitivity and it is highly visible. CPRE believes the landscape and visual effects are underestimated. The landscape and visual appraisal does not convincingly demonstrate that these impacts can be mitigated. Nor does it explain why the Landscape Character Assessment guideline which recommends that modern development around the outskirts of Smarden be resisted is not relevant in this case.

It is a particular concern that the assessment underestimates the impact of development in views into the site. It is important that this assessment is correct so that impacts can be robustly assessed and the likely success of mitigation effectively discussed. The land is highly visible from the west, east and north of the site. The appraisal needs to review its assessment of viewpoints from 'The Street', from 'viewpoint 7' (public footpath to the east), and from north of the site at Weathercock in the approach to the village.

Photographs 1 – 3 in part 4 of this representation clearly illustrate the prominence of the site in local views. Viewpoints mapping at Figure 6 of the Landscape and Visual Appraisal is incorrect.

2. Impacts on biodiversity

CPRE is concerned that the proposal is not supported by adequate and accurate survey information for the Council to make an assessment, with reasonable certainty, that impacts on protected species can be adequately mitigated. Clearly, it is difficult to determine whether the location and design of development could adequately respond to protected species and avoid an impact on populations and direct injury to individuals, if that work is not completed. CPRE note that KCC have sought clarification on a number of issues. A revised report should be produced so that the ecological appraisal can be reviewed again in its whole.

Paragraph 109 of the NPPF requires that the planning system minimises the impacts on biodiversity and provide net gains where possible, contributing to the Government's commitment to halt the overall decline in biodiversity including establishing coherent ecological networks. This requirement cannot be met without a good understanding of protected species present.

Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that "*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.*"

A drainage strategy is essential to ensure that run-off (and associate silt and pollution) does not affect the Beult SSSI. CPRE notes that KCC is not satisfied that surface water will be adequately managed on site. This is unsatisfactory. Flooding associated with the Beult and the impacts on the SSSI of

untreated surface water runoff are substantial issues in this decision. It is also essential to ensure that local surface water flooding concerns are effectively considered in the decision making process.

3. Loss of Best and Most Versatile Agricultural Land

The site comprises land that is in agricultural production. The proposal does not conclude whether the site is Grade 3a, or 3b agricultural land. This distinction is important in policy and agricultural land quality should be examined. The Planning Statement refers to a Soil Resources Report, but it does not seem to be available.

Food security and maintaining the ability to feed a growing population is an increasingly important national and social issue, meaning that giving up precious BMV land for development should be robustly justified. This is why national planning policy seeks to protect such land and to steer development to land of lower quality. This is explicitly explained in paragraph 112 of the NPPF, which states:

“Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

Should the land be classified as ‘Best and Most Versatile’ then it would be important for an applicant to make sufficient argument that this NPPF Guidance should be set aside, so that poorer land should not be sought in preference to higher quality land. This should include assessment as to how the loss of a site would affect the viability of the remainder of the farm holding, which is a further important consideration. CPRE would be concerned that operation of the farm track by large agricultural vehicles might be considered a bad neighbour in future, such that there may be local pressure against its continued use. There is no information available about which parcels of land are solely served by the farm track (illustrated in Figure 9 of the Design and Access Statement) on the south western boundary.

4. Impact on the significance setting of listed buildings and the Conservation Area

Jubilee House and Stanley House, both Grade II listed buildings, share a degree of intervisibility with the site. There is a potentially harmful impact on the significance of these listed buildings, particularly in the winter when landscaping treatment is more visually permeable. While it may be possible to limit the harm to the settings of these buildings through strong landscaping, constrained building heights, and appropriate roof forms and materials, the application fails to provide sufficient evidence to support this conclusion.

The settlement was historically linear in form. Estate development without an agricultural outlook does not take proper account of the characteristic built form of the settlement. This is supported by the Landscape Character Assessment (2009).

Furthermore the heritage statement fails to illustrate the prominence of the site in the approach to the village (see photographs 1 and 2). This impact is likely to be detrimental to the experience of the historic settlement. The case for appropriate mitigation of this impact needs to be presented in more detail.

Photograph 3 illustrates the impact of hedge management on the visibility of the site. CPRE is not satisfied that the applicant is able to demonstrate (with the evidence currently submitted) that proposed landscaping will be sufficient to mitigate impacts on historic assets.

Photograph 1: Stanley House and Weathercock, with the application site immediately beyond the bend in The Street.

Source: Google Streetview (2009)



Photograph 2: View of the site from The Street, Westhercock House on the left.

Source: Google Streetview (2009)



Photograph 3: View of the western boundary of the site from The Street.

Source: Google Streetview (2009)



5. Sustainable Development

The NPPF seeks to ensure that development is sustainable, and it explains in paragraph 7 that sustainable development has three roles – economic, social and environmental. Paragraph 8 goes on to explain that these three roles should not be undertaken in isolation, and that sustainable

development is achieved by ensuring that economic, social and environmental gains are sought jointly and simultaneously. This proposal does not comprise sustainable development in accordance with these requirements of the NPPF.

In summary the proposal fails to:

- ensure the most effective use of land to meet the future development needs of Ashford Borough,
- demonstrate NPPF guidance should be set aside, to use land of best and most versatile quality when alternative land of lower quality should be used in preference;
- adequately assess the potential impact on habitats and protected species;
- demonstrate that the material harm to the character and function of landscape, and the setting of historic buildings (and the historic settlement), is not significant.

The Core Planning Principles in the NPPF recognise that preference for land of less environmental value is a core land-use planning principle.

In terms of its location, on the edge of a village that sits within lower tiers in the settlement hierarchy, the principle of a development of this size must be questioned. Social and physical infrastructure is inadequate to serve the proposed population. The development will inevitably be car dependant, with its occupants travelling by car to work in Ashford or beyond. This would be a poor response to the carbon reduction challenge and locally detrimental in terms of noise, congestion, road safety and air quality.

6. Access and safety

A highly engineered access is proposed to the north of the site. Its location close to a tight bend on The Street means that the access, together with extensive visibility splays, will result in removal of a significant length of hedgerow. It is noted that additional planting is proposed in this location, but the access, kerbs, associated necessary pedestrian crossing, footways, lighting and signage will all serve as urbanising influences on this rural approach to the village. The relationship of the access to the tight bend to the east and Glebe Close to the west is likely to introduce road safety issues for both car users and pedestrians. This access is completely inappropriate in this rural setting and would destroy the rural ambiance of the conservation area.

7. Conclusion

CPRE Kent has not seen evidence from the Council to challenge its most recent 5 year supply statement. In any case, the claim of the Appellant that the Council cannot demonstrate a five-year supply of land for housing would not outweigh the adverse impacts of developing this site. The proposal would introduce an unsustainable pattern of development into a sensitive, valued and historic landscape. It is inappropriate in the case of this sensitive site, where village character, heritage environmental and landscape character are critical issues, for so much essential detail to be reserved matters.

The application should be refused planning permission. It is in the public interest, in view of the imminent publication of the Regulation 19 Plan, that sites are identified through the local plan, against a clear strategy to direct development to the most sustainable locations.

Yours sincerely,

Julia Barr

pp Hilary Moorby
CPRE Kent Ashford District Committee