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## Appeal Decisions

Site visit made on 29 November 2021

**by Nicola Davies BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 December 2021**

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### **Appeal A Ref: APP/A2280/W/21/3270823**

**LAND SOUTH OF VIEW ROAD, CLIFFE WOODS, ROCHESTER, ME3 8JQ, 573740, 173165**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr A Pritchard of SJP Group Ltd against the decision of Medway Council.
- The application Ref MC/19/2836, dated 7 September 2019, sought approval of details pursuant to condition No 1 of planning permission Ref MC/16/3742 granted on appeal Ref: APP/A2280/W/18/3202264 on 27 December 2018.
- The application was refused by notice dated 17 September 2020.
- The development proposed is approval of reserved matters of appearance, landscaping, layout and scale following outline planning permission Ref MC/16/3742 for the erection of 50 retirement homes comprising of 2/3 storey apartments and single storey bungalows with ancillary meeting room, gymnasium, office, parking and garaging.
- The details for which approval is sought are: Appearance, Landscaping, Layout and Scale.

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### **Appeal B Ref: APP/A2280/W/21/3279943**

**LAND SOUTH OF VIEW ROAD, CLIFFE WOODS, ROCHESTER, ME3 8JQ, 573740, 173165**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr A Pritchard of SJP Group Ltd against the decision of Medway Council.
- The application Ref MC/21/0323, dated 30 January 2021, sought approval of details pursuant to condition No 1 of planning permission Ref MC/16/3742 granted on appeal Ref: APP/A2280/W/18/3202264 on 27 December 2018.
- The application was refused by notice dated 28 June 2021.
- The development proposed is approval of reserved matters of appearance, landscaping, layout and scale following outline planning permission Ref MC/16/3742 For the erection of 50 retirement homes comprising of 2/3 storey apartments and single storey bungalows with ancillary meeting room, gymnasium, office, parking and garaging.
- The details for which approval is sought are: Appearance, Landscaping, Layout and Scale.

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### **Decision**

1. Appeals A and B are dismissed.

### **Preliminary Matters**

2. As set out above there are two appeals at this address. Given that the nature of the proposals and the Council's reasons for refusal are similar in each case, I have dealt with both proposals in this single decision letter.

3. The outline planning permission has established the principle of the development. It is the details of those reserved matters, appearance, landscaping, layout and scale that are for consideration here, together with details submitted pursuant to various conditions imposed upon the outline planning permission, for which approval is being sought.
4. A revised version of the National Planning Policy Framework ('the Framework') has been published since the reserved matters planning applications were determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
5. The appellant has put forward additional plans and/or information in support of both appeals. These additional details have been produced to inform the appeal process, however there is no clear evidence that all of the details have been subject to consultation, particularly that of the additional plans that have been provided in support of Appeal B. If I determined the appeals on the basis of the additional plans and/or information, it is possible that the interests of parties who might wish to comment would be prejudiced. For this reason, I have limited my considerations to those plans and information upon which the Council made its determination on each case.

### **Main Issues**

6. The main issues in these cases are: -
  - a. The effect of the proposed development upon the character and appearance of the area (Appeals A and B);
  - b. The effect of the proposed development upon the living conditions of future occupiers (Appeals A and B);
  - c. Whether suitable highway and motor scooter parking arrangements would be provided to serve the development (Appeals A and B);
  - d. Whether a suitable sustainable drainage arrangement incorporating biodiversity would be provided to serve the development (Appeals A and B); and
  - e. The effect of the proposed development upon ecology within the site and at the adjacent Site of Special Scientific Interest (SSSI) and ancient woodland (Appeal B only).

### **Reasons**

7. The planning application relating to Appeal B was submitted in an attempt to address the Council's reasons for refusal relating to Appeal A. The application relating to Appeal B was supported by a landscape strategy, landscape design and management plan, identification of amenity space on the plan privacy being provided between individual garden areas, swept path analysis, information relating to the proposed scooter storage, a transport statement, and a sustainable drainage system incorporating swales. The layout of the development, number of units and architectural design are the same for both schemes.

### *Character and appearance*

8. The proposal would involve the development of countryside land that has previously been determined at appeal to be acceptable for the erection of 50 retirement homes. With regard to the outline proposal the Inspector commented in his decision that he treated the submitted plans as illustrative as he was only required to consider access at the outline state.
9. The Council contends that the density is inappropriately urban in character, however the quantum of development accords with that granted outline planning permission.
10. Appeal A indicates that part of the amenity area would be occupied by two boules courts and a shaded seating area with the remainder as grass traversed by a tree lined boulevard. Appeal B also includes an allotment within this area. The amenity space would be abutted by three buildings and parking areas with the highway encircling the central amenity space. The rear of dwellings would also face onto the central amenity space.
11. I consider the layout would create a community feel to the central amenity area and this would be conducive to this retirement home development. This space would offer passive and active space for future residents. The road is proposed as a one-way system. As such, it would not be as wide as a two-way highway. Therefore, it would not be a dominant feature within the development. Although the parking would be provided in rows, I do not consider this arrangement would be substantially visually poor. Consequently, I do not consider a poor quality of amenity space for future residents would result. Nor do I consider the scheme would be poor visually or functionally.
12. The proposal would create a new urban edge adjacent to countryside land and would create built development along almost the entire length of the southern part of the site with only small gaps between blocks. Furthermore, the development would be built close to the southern boundary of the site.
13. The Council considered as part of Appeal A there to be an insufficient buffer width along the southern and western boundaries for effective and contextual landscape mitigation. Only a chain-link fence would define the southern boundary. An orchard abuts the western boundary of the site. Additional soft landscaping has been included within the 2m chain-link fence that would run the full length of the southern boundary relating to Appeal B. The Landscape Statement that supports the application comments that the southern boundary would be defined by a new native species hedgerow. The Illustrative Landscape Masterplan shows a hedge along the southern boundary with spaced trees in front of block A with smaller trees at intervals in front of block D. However, a Lloydbore plan PO1 does not show any trees to the front of block D.
14. Although there would be some tree planting along the southern boundary, its spacing would not significantly filter views of the development, noting that block D would be a two/three storey building. The main habitable rooms within the development aim to maximise views over the adjoining countryside, a point noted within the appellant's Landscape and Visual Impact Assessment (LVIA). In order to maintain such views for the enjoyment of future occupiers the hedge would be likely to be maintained at a low height. Being limited in height it would not screen the development in views from the south, nor would the orchard screen block D in views from the west.

15. Given the extent of built development proposed close to the southern and western boundaries of the site, the proposal would not be sympathetic to the rural context south and west of the site and would create a visually harmful settlement edge directly adjacent to the countryside. The conclusions of the LVIA are that there would be no significant visual impact in the views selected for assessment other than in longer distance glimpsed views from highways. The argument that the development would be out of public view would not be compelling in principle and does not provide exceptional justification for an unsympathetic edge of settlement development that fails to transition successfully from urban to rural.
16. I have been referred to planning permissions at Merryboys Road and west of Town Road, both situated within the Council's administrative area. However, I have only been provided with the decision notice and a site layout plan in each case. Given the limited information that is before me, I am unable to determine what similarity those developments would have in relation to the adjacent open countryside to that of the appeal that is before me.
17. For these reasons, I conclude that the proposals would be harmful to the character and appearance of the area. The proposals would, therefore, conflict with Policies BNE1 and BNE6 of the Medway Local Plan 2003 (the Local Plan) and the Framework that seek, amongst other matters, development to be appropriate in relation to the character, appearance and functioning of the built and natural environment.

#### *Living conditions*

18. A pathway is proposed around the perimeter of the site between the site boundaries and blocks A and D. There would be limited space between the proposed units and the perimeter boundaries. This path would enable people to walk within close proximity to the habitable room windows of residential units. This would result in an adverse and harmful impact on future occupiers with regard to lack of privacy. Any landscaping to the front of properties would be low to maintain outlook for occupiers. As such, this would not mitigate my privacy concerns. Whilst it could be said that this might foster a community spirit, I consider having privacy within one's home would be a reasonable expectation for future occupiers of the development.
19. For these reasons, I conclude that the proposals would be harmful to the living conditions of future occupiers. The proposals would, therefore, conflict with Policy BNE2 of the Local Plan and the Framework that seek, amongst other matters, development to secure the amenities of its future occupants.
20. There is also concern that harmful overlooking would occur as the gardens relating to the units would not have side boundaries. However, this could be overcome by the imposition of a suitably worded planning condition requiring side boundaries to be put in place.

#### *Highway and motor scooter parking*

21. The vehicular access to the site was approved at outline stage at appeal and this remains unchanged. A swept path analysis for large vehicles manoeuvring within the internal road network was omitted from the application subject to Appeal A but has been included within the proposal pursuant to Appeal B. The Council has subsequently concluded that the movement of large vehicles can

be achieved within the site. On the available evidence before me I see no substantive reason that might lead me to conclude differently on this matter.

22. The mobility scooter parking would be located a distance from some of the residential units. The proposal relates to accommodation for elderly persons rather than a care home. One could anticipate those occupying the development to be reasonably active. This does not lead me to conclude that the location within the site proposed to accommodate mobility scooters is unsuitable due to its location.
23. For these reasons, the proposals would provide suitable highway and motor scooter parking arrangements to serve the development. As such, the proposals would comply with Policies T1 and T22 of the Local Plan and the Framework that, amongst other matters, require an assessment of the highway impact of the development and that seek development to make provision for people with disabilities.

#### *Drainage and biodiversity*

24. Sustainable drainage measures have been put forward for both proposals, however the Council considers there to be insufficient information within the details submitted.
25. In regard of Appeal A the proposal fails to address opportunities to secure sustainable drainage such as rainwater harvesting, ponds and swales and to enhance biodiversity. The scheme provides for permeable paving, geocellular system and hydrobrake but does not include multi-functional sustainable drainage. Furthermore, the drainage condition attached to the outline permission specifies the need for a phasing plan and details of maintenance and management. Neither however have been provided.
26. With regard to Appeal B it is not clear whether the measures include the entire development area or whether sufficient storage would be provided for greenfield runoff. There are also uncertainties raised to management and those responsible for it.
27. For these reasons, I conclude that the proposals would not provide a suitable sustainable drainage arrangement incorporating biodiversity to serve the development. The proposals would, therefore, conflict with Paragraphs 167, 174(d) and 180 of the Framework that seek, amongst other matters, to ensure flood risk is not increased and to include opportunities to improve biodiversity in development as part of their design.

#### *SSSI, woodlands and ecology*

28. At the outline appeal a main issue related to the impact of the proposed development on the ecological interests of the SSSI in terms of the increased cat population. A completed legal agreement set out a No Pets policy which was accepted by the Inspector as satisfactory mitigation.
29. A reptile survey confirms slow worms and common lizards to be present at the site. Concern has been raised by the Council to the potential impact upon reptiles at the site. However, I have been advised that condition 8 imposed upon the outline planning permission that pertained to reptiles has subsequently been approved by the Council (Council Ref: MC/21/0070). On this basis there is no need for me to consider this matter further.

30. The Chattenden Woods and Lodge Hill SSSI and Great Chattenden Wood ancient woodland is situated immediately adjacent the sites south-eastern corner. The Council's committee report (relating to Appeal B) advises that the plans show an approximate 20m landscape and ecological buffer along the extent of the eastern boundary in relation to Appeal A that is reduced to approximately 15m within Appeal B. The Council advises that a minimum of 15m distance is recommended for providing a buffer to ancient woodland. Taking this into account both proposals appear to adhere to this recommendation.
31. Notwithstanding the above, in respect of Appeal B a path and allotments are proposed adjacent to the designated sites and disturbance arising from activities related to the use of the path and allotments may impact on ecology and the sensitive areas of the SSSI and ancient woodland. As such, a precautionary approach must be taken given the sensitivity of the adjacent designated site. This brings the Appeal B proposal into conflict with Policies BNE35 and BNE39 of the Local Plan and the Framework which gives long term protection to SSSIs, safeguards protected species and/or their habitats and that seeks to protect and enhance valued landscapes, including woodland.

### **Other Matters**

32. The Council cannot demonstrate an up-to-date five-year supply of housing sites, however the site benefits from outline planning permission for 50 retirement units. Given outline planning permission is in place the supply of housing sites is not a matter for the reserved matters applications and these subsequent appeals.
33. I have been referred to an email exchange between the appellant and the Council's Head of Planning. However, that exchange is a matter between the appellant and the Council. It has been commented that consultation responses from internal Council consultees were not made available to the appellant. This relates to a matter of Council procedures and should be taken up with the Council separately from this appeal.
34. The application also seeks the discharge of various conditions. Conditions 6, 7 and 9 that relate to landscaping and ecological enhancements and condition 16 relating to flood risk mitigation should not be discharged given my above conclusions. Condition 5 requires details and samples of materials to be used externally. I have not been provided with samples of the materials that might enable the discharge of this condition. Condition 18 relates to vehicle parking at the site which given my conclusions the layout of the site may be subject to change. As such I do not consider it appropriate to discharge this condition. Condition 20 stipulates that the development has a minimum of 5 electric charging points provided within the car park. There is no stipulation for such details to be submitted for approval or formal discharge of this condition.

### **Conclusion**

35. Having regard to my above findings, Appeals A and B should be dismissed.

*Nicola Davies*

INSPECTOR

## Appendix 1

List of those who have appealed

<b>Reference</b>	<b>Case Reference</b>	<b>Appellant</b>
Appeal A	APP/A2280/W/21/3270823	Mr A Pritchard (SJP Group Ltd)
Appeal B	APP/A2280/W/21/3279943	Mr A Pritchard (SJP Group Ltd)