



Planning Inspectorate

Appeal Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2025

Appeal Ref: APP/V2255/W/25/3369778

Land rear of 67 High Street, Milton Regis, Sittingbourne ME10 2AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Steve Waller (Waller Associates Ltd) against the decision of Swale Borough Council.
 - The application Ref is 25/500647/FULL.
 - The development proposed is the erection of a detached, 1.5 storey residential property comprising 2no. 2-bedroom dwellings, with associated parking, landscaping and amenity. Creation of associated refuse and access for application site and neighbouring properties.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within 6km of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). As part of the appeal, the appellant has provided a financial contribution towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy for off-site mitigation. This has been confirmed by the Council.
3. Given this, the Council have stated the second reason for refusal relating to the impact of the proposal on the SPA can fall away. I have therefore proceeded on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed buildings, at Nos 67 and 69 High Street, and the extent to which it would preserve or enhance the character or appearance of the Milton Regis Conservation Area.
 - the effect of the proposal on biodiversity.

Reasons

Heritage impacts

5. The appeal site is located within the rear gardens of Nos 67 and 69 High Street, which are Grade II listed terraced buildings within the Milton Regis Conservation Area. The gardens are deep and irregular in shape, with overgrown vegetation, informal paths and remnants of old brick boundary structures. A brick wall encloses the northern edges and provides a clear boundary between the historic garden plots and the later development around Cortland Mews. Despite its unmanaged appearance, the site retains the character of historic rear gardens that remain visually and functionally connected to the listed buildings.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) sets out that in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I also have a statutory duty under section 72 of the 1990 Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. The Milton Regis Conservation Area Appraisal and Management Strategy (CAAMS) identifies long, narrow rear plots as a defining and highly significant feature of the conservation area. These plots reflect the area's medieval burgage-plot layout, demonstrating how properties historically extended back from the High Street. The CAAMS also highlights boundary walls as important features that help define plot divisions, enclose private spaces and reinforce the historic grain of development.
8. Nos 67 and 69 High Street make a positive contribution to the Milton Regis Conservation Area (CA) through their age, vernacular form and position within a historic terrace. Their long rear gardens form part of their traditional setting, illustrating the depth and function of their plots. The brick boundary walls, while not necessarily contemporary with the houses, follow long-established boundaries and play an important role in delineating the historic burgage plots and separating them from later development. They reinforce the legibility of the historic layout and contribute to the appreciation of the listed buildings' rear setting.
9. The proposal would introduce two 1.5-storey dwellings, forecourt parking and associated hard landscaping into what is currently undeveloped garden land. The appellant argues that the curvature of the plots means they are not true burgage plots and refers to an OS map dating from the 1830s-1880s. The appellant contends that none of the current curtilage was historically associated with Nos 67 and 69. I am not satisfied with this view. The map referred to shows deep, narrow and curved plots in the same location as the appeal site. Whilst the evidence doesn't allow us to accurately determine whether all the land in the curtilage was historically associated with Nos 67 and 69, I am satisfied that the proposed development land is characterised by a historic burgage layout and is within the immediate setting of the listed buildings.
10. Although parts of the remaining boundary walls may not necessarily date from when Nos 67 and 69 were constructed, their presence and alignment reflect the long-established subdivision of the plots visible on historical mapping. Even if the fabric of the walls has changed over time, they continue to illustrate how land to the rear of the High Street was historically enclosed and managed. Their contribution lies less in their precise age and more in their role in defining the depth, extent and form of the historic burgage plots. The removal or breaching of

these walls would erode legibility of that pattern and diminish an authentic aspect of the CA's character and of how the setting of the listed buildings has evolved.

11. The introduction of new built form, an access road and parking area would fundamentally alter the historic layout and pattern of development. By inserting a substantial building across the width of the plots, the scheme would disrupt the ability to read the rear gardens as part of the original High Street plots. It would constitute a prominent separate backland development that would erode the historic plot pattern.
12. The formation of a new vehicular access would require the removal of a section of the northern boundary wall adjacent to Cortland Mews. The appellant considers the wall to be of limited significance. Regardless of its age or condition, the wall contributes to the legibility of the historic plots by providing a continuous boundary that separates them from later development. Its partial removal would create a conspicuous break in this boundary and diminish its contribution to both the CA and the setting of the listed buildings.
13. The proposal would erode the perceptible open space that has long separated the rear elevations of surrounding properties. The new building would be readily appreciable from neighbouring dwellings and gardens, where it would appear as an unexpected and incongruous intrusion into an area the CAAMS identifies as important. This tightening of visual gaps between buildings would not only alter how this part of the settlement is experienced by nearby occupiers but would also diminish the ability to read this fragment of the CA as part of the historic burgage plot structure that contributes to its character and significance.
14. Whilst the appellant emphasises that the proposed design responds positively to pre-application feedback and would relate well to its surroundings, include sympathetic materials and would refer to local architectural cues, these measures would not resolve the underlying harm, which stems from the disruption of the historic burgage layout.
15. Taken together, the introduction of new built form, domestic activity and the loss of boundary walls would undermine the historic burgage-plot pattern identified as highly significant in the CAAMS, harm the garden setting of the listed buildings, and reduce the contribution the site makes to the CA. Given this, I find that the proposal would fail to preserve the special interest of the listed buildings and the significance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
16. Paragraph 212 of the National Planning Policy Framework (the 'Framework') advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification. Given the impact of the proposal on the setting of the listed buildings, the curtilage listed walls and on the protected historic characteristics of the CA, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. The harm would be at the higher end of this scale.
17. Under such circumstances, paragraph 215 of the NPPF advises that this harm should be weighed against the public benefits of the proposal. The appellant is of

the opinion that the proposal would be beneficial because of the delivery of new housing, economic activity, more efficient use of land, and an improvement to the appearance of the site. Whilst the provision of new housing attracts moderate weight, the contribution of two units is modest. Any construction and spending benefits would be short-lived and limited. The suggestion that the proposal would improve the site's appearance is unconvincing given the CAAMS makes clear that its value lies in the preserved burgage plot layout. Taken together, the benefits advanced would not outweigh the less than substantial harm identified, to which great weight must be given.

18. I therefore conclude that the proposal would have an adverse effect on the character and appearance of the area and the setting of the nearby Grade II listed buildings at Nos 67 and 69 High Street and would fail to preserve or enhance the character or appearance of the CA. Accordingly, the proposal would fail to satisfy the requirements of the Act and conflict with Policies CP4, CP8, and DM14 of the Swale Borough Local Plan 2017 (the 'Local Plan') insofar as they seek to ensure proposals are well-designed, appropriate to context, and sustain and enhance designated heritage assets.
19. The proposal would also conflict with Policies DM32 and DM33 of the Local Plan which seek to ensure that proposals preserve the special architectural features or historic interest of listed buildings and preserve or enhance features that contribute positively to the special character or appearance of a conservation area.

Biodiversity

20. The updated ecological material submitted with the appeal identifies the potential presence of various protected species. KCC Ecology is satisfied with a precautionary approach for bats, badgers and breeding birds. However, given the long-term vegetated nature of the site and the complete or near-complete loss of that habitat under the proposals, there is a realistic prospect of reptiles being present and impacted by the scheme.
21. A reptile survey is required to determine presence and population size, and to inform a mitigation strategy that may require off-site receptor habitat. A precautionary working method alone would not avoid potential harm, since the proposal would remove all suitable reptile habitat. Relying on a condition would risk either ecological harm or leave the permission incapable of lawful implementation should mitigation prove unachievable.
22. While the Council is satisfied that Biodiversity Net Gain (BNG) can be secured through off-site units or statutory credits, BNG does not negate the need for proper assessment and mitigation of protected species. As adequate information on reptiles is lacking, the proposal would have an adverse effect on protected species.
23. Given this, the proposal would have a harmful impact on biodiversity. As such, it would conflict with Policy DM28 of the Local Plan and with the requirements of the Framework which seek to ensure that proposals conserve and enhance biodiversity, minimise any adverse impacts, and are accompanied by appropriate surveys.

Other matters

24. The Council states it is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11 (d) i) states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provide a strong reason for refusing the proposal. Footnote 7 identifies designated heritage assets as such assets. I consider that the harmful impacts of the scheme on the setting of the listed buildings and CA and the great weight attributed to these harms provide a strong reason for refusing the proposal. Therefore, the presumption in favour of sustainable development does not apply in this case.
25. The appellants consider the proposal would be an efficient use of land, providing new housing in a sustainable settlement within walking distance of local services and public transport. However, the addition of two dwellings would make only a minor contribution to housing supply but, given the shortfall, this nonetheless attracts moderate weight in favour of the proposal.
26. There would also be some minimal economic benefits during construction and from future occupants' contributions to the local economy through the use of services and facilities. Any economic impact would be short-lived and diffuse. Therefore, I have attached limited weight to this consideration.
27. The appellant suggests there would be ecological enhancements. However, these are largely mitigation measures and, in any event, cannot be confirmed without the necessary reptile surveys, so attract little weight. Furthermore, the integration of sustainability measures such as solar and rainwater systems would be positive measures but still need to be balanced against the harm identified.
28. Assertions of good design do not alter the heritage findings, and the absence of harm to living conditions, highways and other matters are neutral considerations that neither weigh against or in favour of the proposal.

Planning Balance and Conclusion

29. There is no doubt that there are benefits of the proposal associated with the delivery of housing on a small site, in a sustainable settlement. However, the harm that would result through the site's location relative to the listed buildings and the CA would bring the proposal into conflict with the development plan as a whole, as well as the 1990 Act insofar as it relates to listed buildings and conservation areas. It has also not been demonstrated that the proposal would not harm protected species, which would bring it into conflict with local and national policy.
30. The harm to the setting and significance of Nos 67 and 69 High Street and to the Milton Regis Conservation Area would individually be less than substantial but nevertheless attracts considerable importance and weight. In my judgement the cumulative public benefits and other matters noted above would not be sufficient to outweigh the identified harm to the listed building or the CA. Accordingly, I am not persuaded that there is a clear and convincing justification for the harm that would be caused to the significance of these designated heritage assets.
31. Taken together, the benefits of the scheme would not clearly outweigh the demonstrable harm to the heritage assets and biodiversity. The proposal would

therefore be in conflict with the aims of the Framework to conserve and enhance the historic environment, and to minimise impacts on biodiversity.

32. I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the SPA, which is a designated European site. New residential development at this site has the potential to cause disturbance to the SPA and therefore the development must provide appropriate mitigation. The appellant has provided a financial contribution towards mitigation as part of the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS). This is acknowledged by the Council. Notwithstanding this, as I am dismissing the appeal for the reasons given above, I do not need to conduct any further assessment in relation to the SPA.
33. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
34. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR