



# Appeal Decision

Site visit made on 10 November 2023

**by C Shearing BA (Hons) MA MRTPI**

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

**Decision date: 12 January 2024**

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**Appeal Ref: APP/L2250/W/22/3312303**

**Land adjoining 39 Victoria Road West, Littlestone TN28 8ND**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Storrie of Legal & General Modular Homes against the decision of Folkestone and Hythe District Council.
  - The application Ref 21/1631/FH, dated 27 July 2021, sought approval of details pursuant to condition 1 of a planning permission ref Y18/0768/FH, granted on 12 November 2020.
  - The application was refused by notice dated 5 August 2022.
  - The development proposed is described as 'Outline application for up to 80 dwellings and access with matters or scale, layout, appearance and landscaping reserved for future consideration.
  - The details for which approval is sought are: scale, layout, appearance and landscaping of the development.
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## Decision

1. The appeal is allowed and the reserved matters are approved, being scale, layout, appearance and landscaping details, submitted in pursuance of condition 1 attached to planning permission ref Y18/0768/FH dated 12 November 2020, at land adjoining 39 Victoria Road West, Littlestone TN28 8ND, subject to the conditions listed in the schedule at the end of this decision.

## Application for Costs

2. An application for costs was made by Legal and General Modular Homes against Folkestone and Hythe District Council. This application is the subject of a separate decision.

## Preliminary Matters

3. On 12 November 2020 outline planning permission was granted under the Council's reference Y18/0768/FH for up to 80 dwellings and access on the appeal site. Condition 1 of that planning permission required that details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site be submitted for approval in writing. Those details were submitted to the Council and the appeal relates to the Council's decision to refuse approval for those matters. This appeal therefore considers only the acceptability of the reserved matters of scale, layout, appearance and landscaping.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to

comment on the implications of this change and I have taken the responses received into account.

### **Main Issue**

5. The main issue is the effect of the proposal on the character and appearance of the area.

### **Reasons**

6. The appeal site is located at the edge of Littlestone and comprises undeveloped grassland used for grazing of animals. Littlestone has a distinct linear form including a series of long roads which run parallel to each other and perpendicular to the sea front, and which are linked by a number of shorter connecting roads. These long roads are predominantly residential in their character, containing long groups of properties which address the street.
7. There is variation in the scale, design and materials of the houses in the surrounding area and variation in the appearance of front gardens. Many houses include modest sized front gardens, often with off street parking and incorporating areas of both hard and soft landscaping behind low level boundary walls. Nonetheless, there is a degree of consistency in the front building lines of the houses and plot sizes, which together give some uniformity to these long streets, which contributes positively to the character and appearance of the area. Some parts of the surrounding area include grass verges at the edge of the highway, particularly on the interconnecting north-south roads.
8. The appeal lies at the end of Victoria Road West, which stops abruptly at the appeal site, and adjoins the rear gardens of properties on Queen's Road to the north. By continuing the long straight route of Victoria Road and using it as a spine road through the development, the proposal would respect the linear pattern of the wider area. This main spine road would include footpaths to either side as well as narrow grass verges to part of the highway edge. These attributes would complement those characteristics of the linear routes through Littlestone. The landscaping plan also demonstrates tree planting alongside the main spine route, which is supported by the Framework. While these would be contained primarily within private front gardens they would nonetheless contribute positively to the character of the new street and Victoria Road West.
9. There are a number of ways in which the proposal would differ from the other characteristics of the wider area, for example in its smaller plot sizes and the frequency of routes which extend from the spine road. Together with the varied orientation of the buildings behind the spine road and its contemporary architecture, the proposal as a whole would appear visually distinct from the main part of Littlestone, rather than a seamless continuation of its character. Nonetheless, the Council acknowledge that the proposal should respect its edge of settlement location and, as such, it would likely have some different attributes to the surrounding area. There is not substantive evidence as to why those differences would amount to visual harm to the character of the area, and the Framework sets out that development should be sympathetic to local character, while not preventing or discouraging change.
10. In addition, while there is little evidence relating to visibility, I observed that the visual effects of the proposed development would be largely limited to

localised views on Victoria Road West, glimpses between the properties on Queen's Road, as well as private views from the surrounding properties. The differences listed above are therefore unlikely to be appreciated from any further view points. Overall, given its respect for the distinctive linear roads of the area, and its location on the edge of the settlement, I consider the proposal would have acceptable visual impacts.

11. The appellant accepts that the proposed density would be higher than those adjoining residential areas. However, this in itself would not result in the proposal being unacceptable. The Framework states that decisions should support efficient use of land, taking into account considerations including maintaining an area's prevailing character and setting, which I have found to be acceptable here for the reasons above.
12. While the proposed garden sizes would be smaller than those of the surrounding area, I note that the sizes involved have been found to be acceptable in terms of the standard of accommodation they would provide. The plans demonstrate where cycle storage could be accommodated for each house, and there would appear to be adequate remaining space for waste storage. The size of the plots may limit the nature of landscaping within the gardens, however, the proposal would also include areas of public open space and a landscaping strip to its southern edge, where more substantial landscaping features could develop. There is not substantive evidence that the garden size would create unacceptable noise disturbance to the neighbouring properties due to the proximity of air source heat pumps, and this could be addressed by condition.
13. Parking areas would be peppered across the development, including parking bays at the road edges, off street bays and other parking courtyards which would serve multiple properties. As such these would represent a significant part of the development overall. However, many of the private off street parking bays would be partially tucked between the buildings and the courtyards would be positioned behind the main building lines, reducing their visibility and prominence. The proposed soft landscaping, over time, would also serve to soften the hard landscaping features of the development. Overall, I do not consider the proposed highways infrastructure would appear prominent or harmful in visual terms.
14. While the Council would prefer to see a softer edge to the settlement comprising looser knit development, this is not a characteristic of the existing settlement edge, and, as above, the proposal would not cause visual harm as a result of its proposed layout. There is not substantive evidence before me to suggest that modular homes would be unsuitable for the site nor be unacceptable in terms of their visual effects.
15. For the reasons given, the proposal would not cause harm to the character or appearance of the area. Despite its differences, these would not be harmful, particularly given the site's location on the edge of the settlement and degree of visibility across the area. As above, the proposal would respect the main positive attribute of the local character, being the pattern of long straight roads, and would sit comfortably within its context.
16. Consequently, the proposal would comply with policies HB1, HB2 and C1 of the Places and Policies Local Plan 2020 (the LP) which require, among other things, development to create a sense of place, and integrate and make a positive

contribution to its location and surroundings. The proposal would also meet the objectives of Policy SS3 of the Core Strategy Review 2022 (the CS), which includes the need for development to be suited to its locality, and the objectives of the Framework insofar as they relate to the need for development to provide well design places and be sympathetic to local character.

17. There is little evidence relating to the alleged conflict with LP Policy NE3, which states that development should protect or enhance the landscape character and functioning of Local Landscape Areas, which include Romney Marsh. For the reasons set out, and in the context of the outline permission and allocation of the site for development in the LP, I am satisfied that the proposal would protect the landscape character through adequately respecting the existing settlement and its function. Neither do I find conflict with Policy SS1 of the CS, which contains the District's Spatial Strategy for new development, again, particularly given the outline permission and the site's allocation for development.

### **Other Matters**

18. Many of the concerns raised by interested parties relate to the principle of the development of the land, including the effects of the development on flood risk, local infrastructure capacity, biodiversity including protected species, and traffic. These were primarily matters for consideration at the time of the outline planning permission and when the Council allocated the site as one for residential development under the LP. I note that there are conditions on the outline planning permission relating to several of these matters, to which the appellant would need to adhere, including those relating to the ground levels of the site and those intended to help protect the living conditions of local residents during the construction process. As above, the appeal before me relates only to the reserved matters subject to condition 1 of the outline planning permission, being scale, layout, appearance and landscaping. It is not therefore for me to consider issues beyond the acceptability of these matters.
19. Access into the site was considered and accepted under the outline planning application, and is not therefore a matter to be reconsidered here. There is little evidence of the need for electrical vehicle charging points to be considered at this planning stage and, in any event, this would now fall to be considered under Building Regulations. The quantum of parking spaces proposed is not a matter in dispute between the main parties and I note the comments of the Highways Officer and assessment in the Committee Report regarding this matter. I have no strong reason to reach a different view.
20. The outcome of the appeal would not affect the need for other approvals or consents to be sought if necessary, for example relating to the flood storage and sewer works. There is not substantive evidence that the appeal proposal would be likely to lead to damage to nearby properties and, in any event, this would be covered under separate legal rights.

### **Conditions**

21. I have considered the conditions put forward by the Council and I have had regard to the advice in Planning Practice Guidance and the Framework in respect of conditions. As the appeal relates only to the relevant reserved matters, conditions can only be imposed which directly relate to those matters.

22. To provide clarity, a condition is necessary to confirm the approved drawings to which the decision relates. The parties have suggested this makes reference to the submitted Drawing Register, which lists the relevant drawings, as well as a revised drawing relating to boundary treatments.
23. A condition is imposed to ensure the areas of play space and public open space are retained for this purpose. However, I am not satisfied that it would be necessary to remove permitted development rights for those areas and have amended the condition accordingly. A condition is also necessary to secure full details of the air source heat pumps, to protect the living conditions of those nearby occupants and to reflect those comments of the Environmental Health Officer.
24. There is not substantive evidence as to why permitted development rights should be removed for means of enclosure to the front boundaries, particularly given the presence of other varied boundary treatments in the wider area. Similarly, it is not substantiated why the erection of poles or overhead lines should require further planning permission in this particular development. It is also not considered necessary to secure details of the locking systems of rear gates, which would be best dealt with by future occupants accordingly.

### **Conclusion**

25. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is allowed.

*C Shearing*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Drawing Register, document ref 0058-LGMH- ZZ-ZZ-SH-A-6210 Revision P01 June 2022, with the exception of the Boundary Treatment Plan listed, which shall instead be the amended Boundary Treatment Plan ref 0058-LGMH-00-PL-DR-A-1015 Revision P09.
2. The areas shown on the approved drawings as public open space and 'natural play' shall remain as such at all times, for use by all residents and visitors to the development.
3. Prior to the installation of any air source heat pumps to the site, their details shall be submitted to and approved in writing by the Local Planning Authority, including details of their acoustic performance. The development shall be carried out only in accordance with the approved details and shall be maintained as such at all times.

### **End of Schedule**