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## Appeal Decision

Site visit made on 16 January 2018

**by S J Papworth DipArch(Glos) RIBA**

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

**Decision date: 19 January 2018**

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**Appeal Ref: APP/U2235/W/17/3178931**

**Part Norham Farm, Lenham Heath Road, Lenham Heath, Maidstone, Kent ME17 2BT**

- 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 Mrs Angela Collins against the decision of Maidstone Borough Council.
  - The application Ref 17/501398/FULL, dated 7 March 2017, was refused by notice dated 18 May 2017.
  - The development proposed is construct of chalet bungalow in substitute for conversion of existing building (which will be demolished), for use by the applicants at existing gypsy caravan site.
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### Decision

1. I dismiss the appeal.

### Main Issues

2. These are:
  - The effect of the proposal on the character and appearance of the area.
  - The effect of the proposal on the supply of gypsy and traveller sites.

### Reasons

#### *Generally*

3. The Council query the reference to a 'joint statement' by the appellant, as no Statement of Common Ground has been agreed. This is taken to refer to the '*Joint Planning and Design and Access Statement*' submitted with the appellant in support of the application.
4. The reason for refusal referred to the Maidstone Borough Local Plan: Submission Version 2016. In fact the Maidstone Borough Local Plan was adopted on 25 October 2017 and the following policy numbers are from the adopted document. The site is in the countryside and Policy SP17 lists limited development that would be permitted, provided it does not harm the character and appearance of an area, and these include the re-use of an existing building, and small scale residential development which, among other uses, meets the proven need for gypsy and traveller accommodation. High quality design that responds to the local character is one of the aims of Policy DM1, and Policy DM15 is specific to gypsy and traveller accommodation. Design principles in the countryside are set out in Policy DM30 which includes that

where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area.

5. The National Planning Policy Framework lists at paragraph 17 the core planning principle of recognising the intrinsic character and beauty of the countryside. Planning Policy for Traveller Sites details national policy and the need for authorities to identify deliverable sites sufficient to provide 5 years' worth of sites against locally set targets, and to protect local amenity and environment.
6. The appeal site benefits from permission for use as a gypsy and traveller site granted by the Council (Ref; 05/2034), and as a result of an appeal regarding a condition attached to that permission (Ref: APP/U2235/A/10/2124473, dated 15 July 2010), up to 8 caravans may be placed on the site, no more than 4 of which can be static caravans.
7. The Council permitted the conversion to residential use of an existing outbuilding (Ref; 16/506736/FULL) which is stated to have been permissible under the then emerging Policy DM35. The formal permission granted for the conversion works stated in Informative (2) that the permission did not remove the requirement to comply with the other conditions attached to the appeal decision notice dated 15 July 2010, which presumably would have included the gypsy and traveller occupation requirement, and Informative (3) confirmed that the dwelling was considered acceptable in addition to the number of caravans allowed on that appeal decision.
8. It is this outbuilding that the appellant seeks to effectively replace with a new dwelling on another part of the site. The permission is extant but not implemented, and the outbuilding would be demolished with conditions ensuring that this removal took place. The end result would be of only the single additional permanent residential structure.

#### *Character and Appearance*

9. The site is at the end of a roadway, with only a track continuing to the north, and whilst there is the proximity of the rail line HS1, the overall character is of only sporadic built form and open countryside interspersed with paddocks, fields and some rural buildings. The site is large and exhibits an attractive openness, with the blue edged land being open beyond.
10. Policy DM31 permits the conversion of an existing building subject to criteria on its form, bulk, scale and design, and that any alterations proposed are in keeping with the landscape and building character. Whilst it is not for this Appeal Decision to revisit the Council's grant of permission, it does appear to be the case that the outbuilding is in a secluded and screened area of the site with few views from outside, the adjoining track being flanked by trees and apparently not greatly used by other than pedestrians and possibly horse riders. It is not possible to take advantage of Policy DM31 for a wholly new-build dwelling in another part of the site.
11. The appellant refers to what is now Policy DM32 on rebuilding and extending dwellings in the countryside and the Policy refers to replacement without specific reference to the need for it to be in the same location on the site. In

fact criterion 1.vi provides for the footprint not to coincide, in which case conditions are to be used to ensure demolition of the original, as could be used here. The Policy does however make clear the need to comply with criteria on the visual effect on the countryside. The Policy wording refers to the 'present dwelling' being lawful, and that is the case here, but the supporting text refers to the term 'original dwelling' as 'first erected' if built later than 1 July 1948, so that it is unclear the extent to which the unimplemented permission bestows the status of the building being a dwelling for the purposes of Policy DM32. Be that as it may, this and the other countryside and design policies as listed above are clear as to their aims to protect the character and appearance of the countryside.

12. Whilst the siting and form of the building to be converted causes no unacceptable harm to the character and appearance of the area, the proposed siting would be more visible in views from the site entrance, being placed across the line of view, and would be on a higher level to the roadside. In addition the proposed chalet bungalow would be significantly higher to the ridge than would be the permitted height of a caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended.
13. The appellant has included photographs of a static caravan located in the same position as now proposed for the permanent dwelling, and whilst wide, it is substantially lower than the chalet bungalow. In permitting the site in the first instance, and in permitting an increase in the number of static caravans subsequently, the Decision makers would have accepted the visual effects, but in the knowledge of the size limits set under the Acts. The proposed larger, and in particular, taller, dwelling would appear intrusive in the landscape and would cause permanent harm to the character and appearance of the area through consolidating the existing sporadic development at the end of the roadway.
14. The proposal would not accord with the countryside protection policies previously cited, and in particular Policies DM1 and DM30. With regard to the latter, there is an existing building that is suitable for conversion as such, although not providing the amount of accommodation sought. The proposal does not satisfy the aims of the Framework on the protection of the natural environment.

#### *Gypsy and Traveller Sites*

15. It is the case that whilst the assumption is that gypsy and traveller accommodation is in caravans, policy does not specify this. However, the nomadic way of life that is a pre-requisite for consideration under Policy DM16 and Planning Policy for Traveller Sites is based on the ability to not only travel from a base but to relocate as working patterns change. That is the way of life that is provided for in the allowance in planning policy for travellers to live in locations not normally permitted to the settled population, and a permanent structure is not compatible with that allowance. In addition to being smaller than the chalet bungalow as sought, a caravan appears as a temporary addition to the landscape so that any impact would be seen as temporary also.
16. It could well be that 'bricks and mortar' accommodation suits the appellant, and that there is sufficient room on the site for the full 8 caravans permitted on appeal, but the erection of a permanent dwelling could limit the use of the site

or building by gypsies more generally, as many have a cultural aversion to living in 'bricks and mortar'. As a result, significant doubt must be acknowledged as to the long-term future of the permanent building, or the land as a gypsy site, when the present occupiers no longer reside here.

17. However, the weight that attaches to this failing has to be tempered by the fact that a permanent dwelling is able to be formed on the site under the conversion permission, and that the full 8 caravans could likely also be accommodated on this large site. That is a fall-back position of considerable weight.

### **Conclusions**

18. The Council's concern over the loss of land that is able to provide for gypsies and travellers, and for which there is an identified need, carries limited weight due to the existence of the fall-back of there being a permanent dwelling on the site as a result of the conversion permission, and conditions could ensure that no more than one permanent dwelling remained on the site, whilst still maintaining the full 8 caravan allowance.
19. However, whilst that permission would result in a building of limited size, in a suitable location on the site, and with an acceptable effect on the character and appearance of the area, the appeal proposal would cause unacceptable visual harm due to its larger size and in particular height, and would be in an over-prominent location.
20. The proposal would therefore fail to satisfy the Development Plan and national policies that seek a high quality of design that responds to the intrinsic character and beauty of the countryside. For the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR