
Appeal Decision

Site visit made on 7 October 2019

by Richard Schofield BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st October 2019

Appeal Ref: APP/U2235/W/19/3223455

1 Chart View, Chart Hill Road, Chart Sutton ME17 3EX

- 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 Mr Craig Miller against the decision of Maidstone Borough Council.
 - The application Ref 18/505924/FULL, dated 12 November 2018, was refused by notice dated 22 January 2019.
 - The development proposed is removal of large stable block and replace with 2 no. single unit mobile homes on existing Gypsy & Traveller site for family members.
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Decision

1. The appeal is allowed and planning permission is granted for removal of large stable block and replace with 2 no. single unit mobile homes on existing Gypsy & Traveller site for family members at 1 Chart View, Chart Hill Road, Chart Sutton ME17 3EX in accordance with the application Ref 18/505924/FULL, dated 12 November 2018 subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. Mr Miller's gypsy status, for planning purposes, has not been questioned by the Council. I have no reason to depart from this position.

Main Issue

3. The main issue is whether, having regard to local and national planning policy for the location of gypsy and traveller pitches, notably in relation to impacts upon the character and appearance of the area, the appeal site is an appropriate location for the development proposed.

Reasons

4. The Maidstone Local Plan (the Local Plan) sets out a clear spatial strategy for the location of new development, articulated by policy SS1. Among other things it commits to the delivery of 187 Gypsy and Traveller pitches over the plan period.
5. Most development is directed to Maidstone, with lesser amounts to the borough's smaller settlements. Beyond these settlements, in locations such as that of the appeal site, *"protection will be given to the rural character of the borough avoiding coalescence between settlements..."*.

6. Thus, SS1 does not appear to preclude, in principle, development beyond the defined settlements, provided that the rural character of the borough is protected and coalescence does not occur. Indeed, the appeal site was allocated as a gypsy and traveller site, for four pitches, in the Local Plan under policy GT1¹.
7. Policy SP17 relates directly to "*the countryside*", which it defines as the areas outside settlements. The relevant criteria contained therein state that:

"development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area"
8. and that:

"The distinctive landscape character of the [inter alia] Low Weald, as defined on the policies map, will be conserved and enhanced as landscapes of local value".
9. Again, development does not appear to be precluded in principle.
10. Policy DM30 sets out a number of design principles for development in the countryside. These also focus very much on maintaining local distinctiveness and landscape character.
11. Turning to gypsy and traveller sites in particular, policy DM15 sets out a range of criteria that need to be met. Given that the appeal site already benefits from being allocated as a gypsy and traveller site, it is reasonable to assume that the basic locational criteria² will already have been considered by the Council when assessing the suitability of the site in the first place.
12. As such, it is difficult to understand the rationale behind the Council's first reason for refusal. It seems to me that, having regard to the thrust of the above policies, the real issue boils down to the degree to which additional pitches on the appeal site would cause conflict with criterion DM15 ii b. To wit:

"Cumulative effect – the landscape impact arising as a result of the development in combination with existing lawful caravans".
13. This appears to be the only explicit concern of the Council, as set out in the Decision Notice, and I turn to it here.
14. When moving along Chart Hill Road, the site is relatively well screened from the public realm by its existing fenced/hedged boundary. All that is apparent are the eaves and/or roof ridges of the structures on the site.
15. One would be hard pressed to find them particularly intrusive, albeit that the incongruous gated entrance and unsightly exposed close boarded fencing on the boundary with Chart Hill Road is not especially sympathetic to the local rural character. The on-site structures are low and, as such, far from being overly dominant in relation to the height and scale of other buildings in the surrounding area.

¹ Being site GT1(3)

² i.e. accessibility to local services; site access; flood risk; and ecology.

16. The site is much more exposed when viewed from the footpath that runs north east, to the east of the site. This could be addressed by appropriate landscaping along the site's eastern boundary. Indeed, this is a requirement of the allocation policy GT1(3). That it does not appear to have been delivered is a matter for the Council's enforcement function. Likewise, the Council's reference to the internal subdivision of the wider allocation.
17. Two additional pitches on the site could result in an intensification of development. This seems to be the only criticism directed at the proposal by the Council, as set out in the Officer's report. Any intensification would be tempered considerably, however, by the fact that an existing building on the site would be replaced rather than there being a significant addition of structures.
18. The submitted plans show that the proposed units would replace, and be positioned in the same place as, the extant stable block. The appellant has stated that they would be single units. An appropriate condition could ensure that the scale of proposed development (i.e. of the mobile homes) was comparable to that of the stable block, such that the net impact of the new structures, in terms of intensification, would be negligible. It could also ensure that appropriate landscaping was put in place and/or reinstated around the site.
19. This being so, there would be no harm to the key characteristics of the Low Weald Special Landscape Area, these being the low lying landscape and sparse development with scattered farms and small hamlets.
20. The Council's comment that mobile homes are "*distinctly different in visual character*" to a stable block must be read in the context of the Officer's view that the site is "*relatively well screened by soft landscaping*". Certainly, other than in views of the site from the public right of way (which could be addressed), and looking at it on the site, one would be hard pressed to identify the stable block as a stable block. Indeed, overall, the Council does not really articulate how any harm would be manifested or experienced.
21. That said, I would share the Council's face value concern if the proposed units were of the same scale as the extant stationery caravan on the site. This appeared to be a large, twin unit mobile home, with the addition of a portico and stone steps. A conservatory appeared to be under construction at the time of my site visit.
22. Even with just the eaves and roofscapes visible, additional units of this scale would give rise to an appearance of being crammed into the plot, and the site overly densely developed, when viewed from the public realm. This would be at odds with the more loosely grained, dispersed pattern of development in the wider area.
23. Thus, the addition of two further mobile homes would result in there being more than four pitches on the appeal site, as allowed for by policy GT1(3). The Council does not appear, however, to be overly concerned about this *per se*; more with the alleged harm to character and appearance arising.
24. When considered in the round, however, I am not persuaded that there would be any conflict with the plan when taken as a whole. The site is established as a gypsy and traveller site and, in my judgment, the appeal proposal, properly

conditioned and implemented, would not give rise to any harms to the character and appearance of the area or to the Low Weald landscape.

25. As such, the appeal scheme would not conflict with Local Plan policies SS1, SP17, DM1, DM15 and DM30. These seek, among other things, to ensure that the Plan delivers 187 gypsy and traveller pitches in appropriate locations, respecting local landscape character and being of a high quality standard of design.

26. The Government's Planning Policy for Traveller Sites (PPTS) is clear that:

"Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan."

27. The appeal scheme would not be for a new traveller site nor would it be outside an area allocated in the development plan. As such, I find no conflict with national planning policy in this regard.

Other Matters

28. It is suggested that the additional mobile homes would mean that the site would, as per the PPTS, come to *"dominate the nearest settled community"*. Again, however, there is no real articulation of how this would be manifested. In my judgment, having walked and driven around the locality, I do not consider that two additional pitches would upset the equilibrium.

29. That said, this is not an unfounded concern. Further growth of the site(s) here could well mean that this relatively sparsely populated area (notably the immediate locality of Rabbits Cross hamlet) would become dominated, to the detriment of its character and community mix.

30. Turning to precedent, I do not see how allowing the proposal would create such. There is nothing before me to suggest that additional pitches, or structures, are being or would be sought. In any case, it is difficult to see how further structures could fit comfortably onto the appeal site. Any proposals to expand the site would have to be considered on their own merits, having regard to the point immediately above and to the fact that there would be clear, visible incursion into fairly exposed countryside (rather than, as here, new pitches within an established site boundary).

31. There is no serious dispute that the Council can demonstrate a five-year supply of both gypsy and traveller sites and of deliverable housing sites. In addition, the Council has questioned the gypsy status of those who may reside in the additional static caravans on the site. In raising these points, however, the Council's position appears to be that there is no need for the additional pitches, given the alleged harm that they would cause, and no justification for the alleged harm in the absence of detailed information about the personal circumstances/ status of future occupiers.

32. I have not found any harm, policy related or otherwise, and, as such, there is no balancing exercise to be undertaken in so far as need/status versus harm is concerned. This being so, and bearing in mind that neither the number of pitches nor houses in the Local Plan appear to be maxima, the fact that the Council appears to be meeting its targets is not a determinative factor.

33. My attention was drawn to decision APP/H1840/W/17/3192134, wherein the Inspector dismissed the appeal on the grounds that the proposal conflicted with the adopted development plan. That may be so, but I have found that the proposal before me would accord with the development plan and, as such, this example is of limited relevance.
34. Concerns were expressed about the utilities infrastructure for the units. There is no suggestion that the site is not served by appropriate utilities. Those facilitating drainage/sewerage could be addressed adequately by condition.
35. I am mindful of concerns in relation to increased vehicle movements, noise and external lighting. The latter could be controlled by condition and it does not seem to me that an additional two pitches would give rise to any substantive increase in vehicle movements and noise over and above that which already exist. I am also conscious that the appeal site is separated from the nearest neighbouring bricks and mortar dwelling (to which the objection relates) by the southern part of the wider site. A more substantive increase to the site(s), however, could well change the character of the area in so far as noise and disturbance from vehicle movements are concerned.
36. It was suggested that unauthorised business uses take place on the site. There is no substantive evidence to support this allegation and (a lack of) business use could be controlled by condition.
37. The appeal site is close to Rabbits Cross Farmhouse, a listed building to the west of the site beyond Chart Hill Road. The site is, arguably, within the setting of this heritage asset.
38. The special interest of this vernacular building derives from its age, history, form and appearance. In my judgment, the elements of setting that contribute to its significance include its relationship with its immediate plot and with the fields around it, including the land beyond Lower Farm Road to the north. The sense of open farmland flowing up to its largely open boundaries, is a characteristic feature of an historic agricultural unit. This longstanding association between the buildings and a wider farmland setting is, arguably, key to defining them, and understanding their significance, as an historic farmstead.
39. There is no obvious physical, visual or historic connection between the appeal site and the listed building, which are separated from each other by Chart Hill Road and intervening vegetation. I do not consider that the appeal site makes any contribution to the heritage significance of the listed building. As such, I consider that the development proposed would preserve its special interest and significance.
40. In reaching this view, I am mindful that the Council raised no concerns on heritage grounds, which is perhaps unsurprising given that the site is already allocated as a gypsy and traveller site.

Conditions

41. The Council proposed a number of conditions in the event that planning permission was granted. None have been disputed by the appellant. In addition, the appellant noted that he would accept conditions in relation to occupancy; landscaping; parked vehicle tonnage; and the proposed mobile units.

42. The latter is of particular importance, given that my decision is predicated on an acceptance of their being (cumulatively) of a size comparable to that of the stable block and an appearance in keeping with their wider surroundings.
43. Thus, I have attached those conditions that are appropriate to carry over from the original planning permission, amended as necessary in the interests of consistency and/or clarity, and have included additional and alternative ones considered as being necessary.
44. A plans condition is necessary to provide certainty, with particular regard to the siting of the caravans in place of the stable block. Occupation should be limited to gypsies and travellers given the specific policy basis for accepting the use. To ensure the continued lack of adverse impact of the site upon character and appearance, conditions restricting the number of pitches/caravans; controlling external lighting, landscaping, caravan type, appearance and location; and restricting additional structures on the site are necessary.
45. Conditions in relation to vehicle weight and restrictions on business use (as well as external lighting) are necessary in the interests of preventing adverse impacts upon the living conditions of the occupiers of nearby dwellings.
46. A drainage condition is warranted given that additional caravans are proposed and that there is a commensurate need to ensure that the site remains appropriately drained.

Conclusion

47. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Richard Schofield

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location & Existing Block Plan (26 Nov 2018); Proposed block plan (27 Nov 2018).
2. The two single unit static caravans hereby approved shall not be stationed on the site until details of their appearance, dimensions and precise location have been submitted to and approved in writing by the local planning authority. The two single unit static caravans placed on the site thereafter shall be in accordance with the approved details and retained as such.
3. The site shall not be occupied by any persons other than Mr Craig Miller or gypsies or travellers and their family and/or dependents, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.
4. There shall be no more than three pitches on the site, none of which shall be transit pitches. No more than six caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time of which only three shall be static caravans.
5. Before the two single unit static caravans are placed upon the site a Site Development Scheme including details of:
 - the method of surface water drainage and foul sewage treatment from the static caravans (including the size of individual cesspools and/or septic tanks and other treatment systems, exact locations plus where systems will discharge to); and
 - details of the hard and soft landscaping (notably to the site boundaries), including details of species, plant sizes and proposed numbers and densities and measures for their protection and retentionhas been submitted to local planning authority for written approval. The approved Scheme shall be carried out and completed before the first occupation of the single unit static caravans hereby permitted and shall be thereafter retained and maintained for the duration of the development.
6. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.
7. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have first been submitted to and approved in writing by the local planning authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. Installation shall thereafter be carried out in accordance with the approved details and maintained as such thereafter.
8. No commercial activities shall take place on the land, including the storage of materials.
9. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.