
Appeal Decision

Site visit made on 13 January 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/X2220/W/19/3236242

Cobb's Yard, Longmete Road, Preston, Dover CT3 1DN

- 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 Andrius Rickus against the decision of Dover District Council.
 - The application Ref 19/00613, dated 23 May 2019, was refused by notice dated 11 July 2019.
 - The development proposed is described as "*Change of use of land from single family gypsy and traveller site to residential private dwelling site. Erection of detached house with detached garage*".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address and description of proposed development from the planning application form, although I note these are expressed differently on other documents.

Main Issues

3. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - a) The need for and supply of gypsy and traveller pitches within the District;
 - b) The character and appearance of the countryside; and
 - c) The setting of the nearby listed building, Ladydown Farmhouse.

Reasons

Need and supply of gypsy and traveller pitches

4. Policy DM1 of the Dover District Council Core Strategy 2010 (the Core Strategy) indicates that development will not be permitted on land outside the urban boundaries and rural settlement confines. Given the site's location in the countryside the site is situated where housing would not normally be permitted.
5. A residential gypsy/traveller site was granted planning permission at the site in 2014 to meet a housing need for a person of gypsy/traveller status. The Council highlights that planning permission was granted in recognition of the

- unusual and compelling circumstances pertaining to that case that justified a departure from Policy DM1.
6. This proposal has been put forward by a person not claiming gypsy and traveller status. The proposal would therefore be for an open market dwelling.
 7. There is a general national and regional need for gypsy and traveller pitches. The Government's aim is to increase the number of traveller sites in appropriate locations to address the under provision and maintain an appropriate level of supply. The Planning Policy for Traveller Sites August 2015 (the PPTS) requires local planning authorities to set targets for providing Gypsy and Traveller pitches within each authority area. The PPTS paragraph 24a) indicates that decision takers should consider the existing level of local provision and need for sites when considering planning applications for traveller sites.
 8. The Council has confirmed that whilst it can demonstrate a 5-year supply of housing sites to meet its general housing need, it cannot demonstrate a 5-year supply of gypsy pitches within the District. The Council Gypsy and Traveller and Travelling Showperson Accommodation Assessment Final Report 2018 indicates a need for 12 pitches under the PPTS 2015 definition of gypsy/travellers between 2017/18 and 2021/22. There is, therefore, a current pressing need for gypsy sites within the District. The loss of this established gypsy/traveller pitch would run counter to providing for the needs of the gypsy/traveller community within Dover District.
 9. For the above reasons, I conclude that the proposed development would be harmful to the supply of gypsy and traveller pitches within the District. The proposal would, therefore, conflict with the provisions of the National Planning Policy Framework (the Framework) that seeks, amongst other matters, development to support communities' cultural well-being and to deliver a sufficient supply of homes for travellers.

Countryside

10. Policy DM1 of the Core Strategy, as noted above, indicates that development will not be permitted on land outside the urban boundaries and rural settlement confines. Given the Council has a supply of general housing sites in place, significant weight can be given to Policy DM1 that directs housing development to the settlements and away from the countryside. Policy DM15 of the Core Strategy sets out that development which would adversely affect the character and appearance of the countryside will only be permitted for specified types of development. The proposal has not been put forward as development that would be of a type specified, therefore, the proposal would conflict with this policy if it causes harm to the character and appearance of the countryside.
11. The countryside in the vicinity of the appeal site is characterised by sporadic farm settlements and low key agricultural designed dwellings and buildings. The topography of the landscape in the area is relatively flat. The appeal site is situated close to a small group of existing dwellings and farmsteads that are surrounded by and interspersed with arable fields. The appeal site, therefore, falls within the countryside where the landscape is predominantly characterised by open farmland.

12. I acknowledge that the use of the site as a gypsy/traveller pitch has, to some extent, reduced the rural character of the site by virtue of it hosting domestic activity. It has also diminished the appearance of the site as it would not appear as open countryside. Nonetheless, the site is reasonably well screened along its westerly, and in part, its front northerly boundaries. Given the low height of the structures at the residential caravan site, the use is not visually apparent in wider public views, although it would be visible from the Public Right of Way to the south and from Longmete Road through the site accesses.
13. The proposal seeks a two-storey dwelling with detached garage. As such, it would be a larger and taller development than that of the residential caravan site and would be clearly visible in views from the surrounding area above the existing hedge boundaries and through the site where the boundaries are more open. The development would have an increased visual impact than that of the existing residential caravan site and would further domesticate the appearance of the site. It would, therefore, have a greater urbanising impact upon the rural landscape than that of the existing use and this would diminish the rural character and appearance of this part of the countryside. The residential development, particularly being a two-storey development, would be visually prominent and intrusive within this rural landscape. Therefore, the visual harm of the proposal to the character and appearance of the countryside would be significant.
14. I acknowledge that in some views from the surrounding countryside the proposed dwelling would be observed within the context of the existing roofscapes of existing adjacent development that is visible in views from the wider landscape area. However, this would not be so in all views of the site. I, therefore, do not consider this would overcome the harm that I have identified above or justify the proposed development.
15. The new development would be of a similar nature and design to that of buildings close by. However, whether or not the dwelling is considered to be of acceptable design and appearance taken on its own merit, this would not overcome the harm to the character and appearance of the countryside that I have identified above.
16. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the countryside. The proposal would, therefore, conflict with Policies DM1 and DM15 of the Core Strategy and the provisions of the Framework. These policies and the Framework seek, amongst other matters, to resist development that would adversely affect the character and appearance of the countryside and that seek to preserve and enhance the natural environment.

Listed building

17. Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special regard to the desirability of preserving the setting of a listed building. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and that the more important the asset, the greater the weight should be.

18. Ladydown Farmhouse comprises a Grade II Listed farmhouse and oast that the Council indicates to be an early 19th Century building. It has distinctive heritage character and appearance. It is of significance, both for its age and its architectural design. It is positioned within a relatively open site. The farmhouse and oast are clearly visible when travelling along Longmete Road and in views from the wider surrounding countryside. The openness of its site and its visibility in views across the countryside landscape form a distinctive part of the setting of the listed building and how it is experienced. This element makes a positive contribution to its significance.
19. The proposed development would be positioned in close proximity to the listed building, although it would not be sited within the grounds that immediately surround the farmhouse and oast. This heritage building can be seen over the existing residential caravan site in views from the PROW west and south of the appeal site. Public views of the listed farmhouse and oast would be impeded by the proposed dwelling, most notably in views from the PROW. This would detract from the setting of this listed building as the proposed development would visually compete with the asset and detract from it in important views of the building from the wider landscape. The proposal would not sustain or enhance the experience of the asset within its setting. For these reasons, the proposal would be harmful to the setting of the listed building and how it is experienced and, as such, would represent a diminution to its significance.
20. Given the size and scale of the proposal and its relationship with the listed building, I consider there would be less than substantial harm to the setting of this designated heritage asset. In accordance with paragraph 196 of the Framework, I must weigh the harm against the public benefit of the proposal. Although the development would provide one well designed family home to the District's general housing supply, the benefit to the public, in my view, would be extremely limited, and insufficient to outweigh the harm identified. I conclude therefore that the proposed development would fail to accord with national policy that affords great weight to the asset's conservation irrespective of the harm being less than substantial to its significance.
21. For the above reasons, I conclude that the proposed development would be harmful to the setting of the nearby listed building, Ladydown Farmhouse. The proposal would, therefore, conflict with the provisions of the Framework that seek, amongst other matters, development to conserve and enhance the historic environment and that require great weight to be given to the conservation of heritage assets.

Other Matters

22. The appellant asserts that the 2014 planning permission is void as the site is no longer owned by a gypsy/traveller. However, planning permission applies to the use of the land and the planning permission limits the occupation of the site by condition to gypsies and travellers that meet the Government's PPTS definition. The appellant contends that the condition can no longer be enforced. As I see it, if the site were to be occupied by a non gypsy/traveller this would be in breach of this condition. On the evidence available to me I see no substantive reason why the Council could not instigate appropriate enforcement procedures if the site were to be occupied by a non-gypsy/traveller.

23. I have been directed by the appellant to Council Policy D1 relating to design, however the Council indicates that the Core Strategy does not incorporate such a policy. Furthermore, reference is made by the appellant to Supplementary Planning Guidance 5: Residential Design Standards 1997. The Council also advises that this document is not recognised by the District Council. I, therefore, cannot attribute any weight to these as they do not appear to form part of the development plan for the District.
24. I have also been directed to the South East England Regional Assembly 'A Better Quality of Life in the South-East' 2010, but that was published some time ago and pre-dates the Framework. I have also been referred to brief extracts relating to the Council's 'local vision' started in 2012 and a review 'Sustainable Development in the Local Context', as well as an item referred to as DDCPP Design 6.8. However, I have not been directed to any specific relevance of these documents to the proposal before me and how they relate to the existing development plan that is in place. This significantly limits the weight that I can attribute to these publications/documents in relation to this appeal.
25. I have been directed to examples of what is said to be similar development that has taken place in the surrounding area that the appellant considers has set a precedent for the principle of developing the site. A prior approval is in place to convert an agricultural building into dwellings. There is also a permission to convert a barn to a residential dwelling (although I note this reference relates to a variation of condition proposal as opposed to a planning permission). Both sites have Longmete Road addresses. However, the prior approval process is a different planning regime separate to that of planning permission which is being sought. The proposal before me would not involve the conversion of an existing building or barn. The development is, therefore, a very different proposal to either of those examples cited. I consider the proposal before me can and should be considered on its own individual merit.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that determinations must be made in accordance with the development plan unless material considerations indicate otherwise.
27. The dwelling would be of acceptable design and appearance when taken on its own merit, and the building would suit owners of today, as well as future generations, contributing to the housing choice within the District. Although these are merits of the proposed development, as these aspects of the proposal would need to be acceptable in their own right to make the development acceptable, they do not hold any weight in favour of the proposal.
28. There is, as noted before, a general national and regional need for gypsy and traveller pitches to which I attribute substantial weight. The retention of the gypsy/traveller pitch would maintain its contribution to the supply of gypsy and travellers' sites within the District, for which a pressing need has been identified. This also holds substantial weight and significantly more weight than the need for a new open-market house on this site, even if the dwelling would be of a type recommended by the Council's SHMA.
29. The erection of a dwelling at this site in the countryside would be harmful to the character and appearance of the countryside. This holds significant weight

against the proposal. The proposal would be harmful to the significance of the designated heritage asset close by. This also holds significant weight against the proposal.

30. The proposal would not comply with Policies DM1 and DM15 of the Core Strategy and, as such, the proposal would not be in accordance with the development plan. Furthermore, the proposal would not comply with the provisions of the Framework. The other matters do not hold sufficient weight to outweigh or justify the substantial and significant harm arising as a result of the proposed development.
31. I have considered those conditions put forward by the Council. However, none of the conditions would retain the site as a residential caravan site. Furthermore, none of the conditions would overcome the harm that I have identified to the countryside and the heritage asset. If the development were to take place the harm that I have identified would arise and the suggested conditions would not obviate this.
32. In exercising my function on behalf of a public authority I am aware of my duties under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In consciously thinking about the aims of the PSED I have had regard to any potential future occupiers of this established gypsy/traveller site's way of life. I have found that the site should remain a pitch to accommodate the District's gypsy and traveller community and this carries significant weight.

Conclusion

33. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR