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## Appeal Decision

Hearing Held on 16 January 2020

Site visit made on 16 January 2020

**by Lesley Coffey BA Hons BTP MRTPI**

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

**Decision date: 10<sup>th</sup> February 2020**

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**Appeal Ref: APP/J2210/W/18/3219414**

**Small Meadows (Formerly Iffin Tank), Iffin Lane, Thanington Without, CT4 7BE**

- 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 Leonard Scamp against the decision of Canterbury City Council.
  - The application Ref 18/00797, dated 18 April 2018, was refused by notice dated 6 July 2018.
  - The development proposed is the change of use of land to provide a mobile twin unit and utility block with associated parking and landscaping, including parking for touring unit under Gypsy status.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to provide a mobile twin unit and utility block with associated parking and landscaping, including parking for a touring unit under Gypsy status at Small Meadows (Formerly Iffin Tank), Iffin Lane, Thanington Without, CT4 7BE in accordance with the terms of the application, Ref 18/00797, dated 18 April 2018, subject to the conditions in the attached Schedule.

### Procedural Matter

2. At the time of the application Mr Scamp submitted information to the Council in relation to his Gypsy and Traveller status. I have not been provided with a copy of this information and the Appellant was unable to obtain a copy from the Council. I am therefore unable to take it into account in my decision. Notwithstanding this, Mr Scamp provided oral evidence at the Hearing. On the basis of this evidence I agree with the parties that Mr Scamp comes within the definition of a Gypsy and Traveller at Annex 1 of Planning Policy for Traveller Sites (PPTS) and I have considered the appeal accordingly.

### Main Issues

3. I consider the main issues to be:
  - Whether the proposal is acceptable in terms of highway safety with particular reference to driver visibility;

- The effect of the proposal on the character and appearance of the surrounding countryside, with particular reference to the Canterbury Area of High Landscape Value;
- The need for and supply of Gypsy and Traveller pitches; and
- The Appellant's personal circumstances.

### **Reasons**

4. The appeal site is located on the western side of Iffin Lane. It is currently occupied by a single caravan and some chicken houses. At the present time the Appellant lives on the site alone. The proposal is to provide a twin unit mobile home together with a parking area for cars and a touring caravan, and the erection of a utility block. It is intended that the accommodation will be occupied by the Appellant and his family.

### **Highway Safety**

5. The development plan for the area includes the Canterbury District Local Plan (adopted 2017). Local Plan policy T1 relates to the Council's transport strategy. At the hearing the parties agreed that it is not relevant to the appeal proposal. I share this view and have considered the appeal accordingly. Policy HD10 sets out the criteria against which proposals for the use of land by Gypsies and Travellers will be assessed. Amongst other matters criterion f) requires that the access to the site should not be detrimental to highway safety.
6. Iffin Lane is a narrow country lane with passing places. It is subject to a 60mph speed limit. The Highway Authority consider that visibility splays of at least 215 metres in each direction should be provided unless there is evidence to indicate that traffic speeds on Iffin Lane are significantly below this speed. The traffic speed survey submitted by the Appellant indicates that the 85<sup>th</sup> percentile traffic speeds are about 33 and 34 mph respectively in north and south directions. The Appellant submits that based on these speeds and the guidance in Manual for Streets (MfS) a visibility splay of about 49 metres would provide acceptable visibility for drivers. This is not disputed by the Council.
7. The Council is concerned that the survey took place over a single day rather than for a full week as recommended by the Highway Authority. Due to its narrow width and winding nature there is insufficient space for 2 vehicles to pass along much of the length of Iffin Lane. Traffic is accommodated through the use of informal passing places, driveways and other accesses to allow on-coming traffic to pass. Therefore although the speed limit is 60mph, vehicles using Iffin Lane generally travel at much lower speeds and, as I observed, generally drive in a cautious manner. As noted by MfS rural roads such as Iffin Lane often have significantly lower speeds by comparison with the design speed. Therefore having regard to the Appellant's survey, together with my own observations, I am satisfied that the speed of traffic using Iffin Lane is considerably below the speed limit of 60mph. Whilst I appreciate the Council's desire for a survey over a longer period to ensure that the speeds within the Appellant's survey are not an anomaly, given the particular characteristics of Iffin Lane I do not consider that a more extensive survey is necessary. Having regard to the submitted evidence I am satisfied that visibility splays of 49 metres in each direction would make adequate provision for driver visibility.

8. Due to the alignment of the road the proposed boundary hedge as shown on the submitted plans would be likely to compromise the necessary visibility splays. As discussed at the hearing the proposed hedge could be set back sufficiently in order to ensure adequate driver visibility towards the north. The precise position of the hedge could be considered as part of a landscape scheme. I understand that at the time of the application a hedgerow on the adjacent land to the south of the appeal site obstructed driver visibility. This has since been removed and has been replaced by a post and rail fence. The necessary visibility splays can now be achieved. However, the visibility splay relies upon views across neighbouring land and since this land lies outside of the Appellant's control there is no guarantee that the visibility splay could be retained in perpetuity.
9. At the hearing the Appellant suggested that a temporary planning permission together with an appropriate condition would enable him to explore a mechanism by which to secure the visibility splay in perpetuity. I am satisfied that this could be achieved by way of a suitable condition. Having regard to the speed of traffic using this stretch of Iffin Lane, I am satisfied that the proposed visibility splays are acceptable and would not give rise to any undue risk in terms of highway safety. In reaching this conclusion I note that the Highway Authority did not comment on the survey submitted by the Appellant. I therefore conclude that the proposal would comply with criterion f) of policy HD10 and would make adequate provision for driver visibility.

### ***Character and Appearance***

10. The appeal site occupies a small plot located close to the road. It was previously occupied by a water tower that was removed about 30 years ago. Prior to the Appellant moving onto the site a caravan was stationed on the site for about six months a year. The site is enclosed by a post and rail fence and there is a line of mature trees immediately adjacent to the southern boundary of the site. With the exception of the site frontage, there is a hedgerow adjacent to the boundaries of the site, although this is not fully mature and provides only limited screening during the winter months. An existing hard surface covers the site. I understand that this was in place at the time the Appellant acquired the site.
11. The site comes within the Canterbury Area of High Landscape Value (AHLV) where policy LB2 states that development will be considered in relation to the extent to which its location, scale, design and materials would impact on, or protect, the local landscape character and enhance the future appearance of the designated landscape and its heritage and nature conservation interest. Within the Canterbury AHLV development proposals should have particular regard to the historic setting of the City and World Heritage site.
12. At the hearing the parties agreed that the proposal would not have an adverse effect on views into or out of the City and would not impact on its historic setting or that of the World Heritage site.
13. The site is situated in the countryside within an area characterised by sporadic development, including individual dwellings and farmsteads as well as the farm to the north of the appeal site. The appeal site has been a separate entity from the surrounding fields for many decades. The proposed use would be consistent with other residential uses along Iffin Lane. Given the small-scale nature of the

proposal and the sporadic development within the wider area the proposal would have a minimal impact on the local landscape character.

14. There would be a change in the appearance of the site due to the introduction of the mobile home and the utility block. In views from the north, the upper part of these structures may be visible particularly during winter months when the trees and hedgerows are not in leaf. From the south views would be available over a slightly longer distance and the structures would be more noticeable. However, in both instances visibility would be limited to a relatively short length of Iffin Lane and its appearance would not be inconsistent with other sites in the locality. Moreover, for the most part views would be limited to motorists using Iffin Lane. Due to the narrow width of Iffin Lane drivers would need to concentrate on the traffic, consequently any views are likely to be fleeting. There are no public footpaths within the locality and I am satisfied that the appeal site would not be visible within the wider landscape. The land opposite the appeal site is occupied by an area of dense woodland and would therefore limit views towards the east.
15. The Appellant proposes a new hedgerow along the frontage of the site and suggests that it could take the form of a ready grown hedge about 1.8 metres in height. Although the precise position of the hedge would need to take account of the necessary visibility splays, it would nonetheless help to mitigate the limited harm arising from the proposal.
16. The proposal would not give rise to any significant harm to the character and appearance of the surrounding countryside and would not harm the Canterbury AHLV or the setting of the City of Canterbury and the World Heritage site. It would therefore not conflict with Local Plan policy LB2, or policy DBE3 which amongst other matters seeks to protect and enhance the distinctive character and quality of the Canterbury District.

### ***Need for and Supply of Sites***

17. The Government's aims in respect of travellers' sites are set out at paragraph 4 of PPTS. Amongst other matters they include the promotion of more private traveller site provision, an increase in the number of traveller sites in appropriate locations to address the provision and maintain an appropriate level of supply, and a reduction in the number of unauthorised developments and encampments.
18. Paragraph 10 of PPTS requires local authorities in producing their local plan to identify an update annually, a supply of specific deliverable sites to provide 5 years worth of sites against their locally set targets.
19. The Council acknowledge that there is an existing unmet need for traveller sites within the District and that it does not have a 5 year supply of traveller sites. PPTS states that where a local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites it should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
20. The Council's most recent assessment of need is based on the evidence set out at table 7.1 of the Gypsy Traveller and Travelling Showperson Accommodation Assessment 2018 (GTTSA). This identifies a total need for 75 pitches against

a supply of 58 pitches. Thus there is an outstanding need for 17 pitches, of which 11 are required for households meeting the PPTS definition.

21. The assessment of supply includes 4 vacant pitches. However, there is no evidence to suggest that the occupants of these pitches were not travelling at the time of the survey and it is possible that they still had a requirement for these pitches. For this reason alone the GTTSAA is likely to underestimate the extent of the need. Notwithstanding this, even on the basis of the Council's own figures there is a significant unmet need for pitches within the local planning authority area.
22. The Local Plan states that it is intended to address this matter by way of a DPD. However, work on the DPD has not yet commenced and the Council was unable to provide an indication as to when it would commence, or indeed be completed. Accordingly, based on the evidence submitted to the hearing, it would seem that there is little prospect that the existing unmet need will be met in the near future. The unmet need for pitches together with the failure to progress the DPD add significant weight in favour of the proposal.

### ***Other Considerations***

23. The Appellant moved to the site about 2 years ago. He accepts that his current use of the site represents unauthorised development, but explains that at the time he purchased and moved onto the site he believed the use to be lawful, due to the previous history of the site. Nonetheless, a Written Ministerial Statement in December 2015 states that intentional unauthorised development is a material consideration in respect of planning applications and appeals.
24. In the circumstances of this appeal, it would seem that due to the previous use of the site the Appellant was unaware that planning permission was required for his intended use of the site. Therefore I afford minimal weight to the Appellant's unauthorised use of the appeal site.

### ***Planning Balance***

25. I have found above that the proposal would be acceptable in terms of highway safety and would not harm the character or appearance of the surrounding countryside. The existing un-met need for pitches and the absence of a five year supply of sites as required by PPTS adds further weight in favour of the proposal.
26. Whilst the unauthorised use of the site adds some weight against the proposal, when looked at in the round I find that the proposal complies with the development plan as a whole. Therefore although the Appellant put forward personal circumstances in support of the appeal it is not necessary for me to consider these.

### ***Conditions***

27. I have considered the conditions suggested by the parties in the light of paragraphs 55 and 56 of the Framework, the guidance within Planning Practice Guidance (PPG) and the discussions at the hearing.
28. The proposal should be carried out in accordance with the approved plans in the interests of visual amenity. In the interests of visual amenity the number of caravans on the site should be limited.

29. As explained above, Mr Scamp has Gypsy and Traveller status for the purposes of PPTS, however his wife does not benefit from such status. Consequently a condition restricting the use of the site to persons with Gypsy and Traveller status would be inappropriate. As discussed at the hearing a personal condition limiting the occupation of the site to Mr & Mrs Scamp and their dependants would ensure that the site continued to contribute to the need for Gypsy and Traveller accommodation. In the interests of visual amenity a condition is also necessary to ensure that should Mr &/or Mrs Scamp cease to occupy the land that it is restore to its previous condition.
30. For reasons of highway safety, the necessary visibility splays should be provided and permanently retained. As explained above, the visibility splays are reliant on views across the adjacent land. Therefore in the interests of highway safety a scheme to secure the visibility splays in the long-term is required. I do not consider that a temporary planning permission is necessary in order to secure the submission of a scheme.
31. I agree that the size of vehicles brought onto the site should be limited in the interests of visual amenity. The Appellant is not proposing any commercial or industrial activities. Such uses would be materially different from the terms of the appeal and therefore a condition is not necessary.
32. A scheme for foul and surface water drainage is necessary to ensure that the site does not give rise to drainage or flooding problems on the site or elsewhere.
33. The Council suggest a condition removing permitted development rights in relation to means of enclosure, hardstanding and decking. PGG advises that permitted development rights should only be removed in exceptional circumstances. Due to the location of the site outside of any settlement boundary I consider that domestic style fencing or other boundaries could adversely impact on the character and appearance of the landscape. I therefore agree that permitted development rights in relation to boundary treatment should be restricted. The site already benefits from an existing hard surface which I understand was in place when the Appellant acquired the site. Any changes to the existing hardsurface would have little impact on the character or appearance of the surrounding area, and therefore a condition restricting permitted development rights in respect of hardstandings or decking is unnecessary.
34. A landscape scheme, including a front boundary hedge, and a schedule of maintenance is necessary in order to assimilate the appearance of the site. Details of any external lighting should be submitted in the interests of visual amenity and biodiversity.

### **Conclusion**

35. For the reasons given above I conclude that the appeal should be allowed.

*Lesley Coffey*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

|               |                     |
|---------------|---------------------|
| Brian Woods   | Planning Consultant |
| Leonard Scamp | Appellant           |

### FOR THE LOCAL PLANNING AUTHORITY:

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| Oliver Ansell | Canterbury District Council |
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### DOCUMENTS SUBMITTED AT THE HEARING

- 1 Local Plan policy LB2 submitted by the Council
- 2 Gypsy and traveller and Travelling Showperson Accommodation Assessment 2018
- 3 Nackington Farmlands Landscape Character Assessment submitted by the Council
- 4 Details of required visibility splays submitted by Appellant

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**Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 603/03 & 603/02A.
- 2) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 3) The occupation of the site hereby permitted shall be carried on only by Mr Leonard Scamp and/or his wife and their resident dependants.
- 4) When the land ceases to be occupied by those named in condition 3 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme for:
    - The means of foul and surface water drainage of the site;
    - The landscaping of the site incorporating native planting and to include the sighting and specification of tree and shrub hedgerow planting, seeding or turfing and the treatment of all hard surfaces;
    - The permanent retention of visibility splays of 2.4 metres x 49 metres at the entrance to the site;shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no

- fences, gates or walls, other than those shown on the submitted plans, shall be erected within or around the site.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
  - 8) At the same time as the landscape scheme required by condition 5 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
  - 9) The visibility splays required by condition 5 above shall be permanently maintained and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level.
  - 10) Prior to the installation of any external lighting details shall be submitted to and approved in writing by the local planning authority. The work shall then be carried out in accordance with the approved details.