



Appeal Decision

Hearing held and site visit made on 11 February 2020

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/U2235/W/19/3221632

The Glen, Pitt Road, Kingswood, Maidstone, Kent ME17 3NR

- 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 M Jenkins against the decision of Maidstone Borough Council.
 - The application Ref 18/502618/FULL, dated 11 May 2018, was refused by notice dated 2 August 2018.
 - The development proposed is demolition of existing utility block/residence and replacement with new detached enlarged residence with gypsy restriction.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of replacement, including retention of existing caravan site at The Glen, Pitt Road, Kingswood, Maidstone, Kent ME17 3NR in accordance with the terms of the application, Ref 18/502618/FULL, dated 11 May 2018, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. Two appeal proposals were discussed at this Hearing, both involving the same participants. The other¹, for the change of use of land adjoining The Glen to use as a residential caravan site for two gypsy families, each with two caravans and an amenity building, is the subject of a separate decision.
3. The description on the original application was for demolition of existing utility block/residence and replacement with new detached enlarged residence with gypsy restriction. In the decision I have taken the description from the planning appeal form, which is for the demolition of existing dwelling and erection of replacement, including retention of existing caravan site. It was evident at the Hearing that this was what both parties understood the proposal to entail.
4. At the Hearing the Council confirmed its agreement to the appellant's draft Statement of Common Ground, as advised in the email to the Inspectorate of 10 February 2020.

¹ APP/U2235/W/19/3228298

Main Issue

5. Whether the replacement dwelling would be acceptable in this location with regard to the character and appearance of the area, the living conditions of occupiers and its location within an established gypsy and traveller site.

Background

6. The proposal relates to The Glen, an established gypsy and traveller site with four pitches. The site is currently occupied by just the appellant and her husband. They reside in the former utility block located to one side of the site. This building has been converted into a single storey dwelling for which the Council has quite recently granted a lawful use certificate.
7. Beyond the boundary to the rear of this former utility block is the site of the separate appeal proposal, discussed at this same Hearing and referred to in paragraph 2 (above). This other appeal proposal is for a residential caravan site to accommodate two gypsy families; those of the appellant's son and grandson respectively.
8. One other Jenkins family member occupies a residential caravan on the separate Bridgefield gypsy site, which The Glen backs onto. Other related families hold the four pitches on The Glen, although these are currently vacant as the occupiers are travelling and the mobile homes subject to either refurbishment or replacement.
9. The appellant and her husband have reached an age where they have ceased a nomadic existence and, arguably, no longer technically meet the definition of being gypsies and travellers, as set out in Annex 1 of the Planning policy for traveller sites² (PPTS). The existing lawful bungalow is not the subject of any occupancy restriction.

Reasons

10. The Glen and the adjacent Bridgefield site lie within countryside as defined by policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 (LP). Situated between the more built up settlements of Langley Heath, Sutton Valence and Kingswood, this area of countryside contains a mixture of agricultural land, woodland, some solar parks, a golf course and sporadic housing development, including several gypsy and traveller sites.
11. Within defined countryside, development proposals are only permitted by Policy SP17 if in accordance with other LP policies. In regard to this proposal, LP Policy DM32 sets the criteria for allowing the rebuilding of dwellings in the countryside. As a permanent replacement bungalow, proposed on the footprint of a lawful and unlisted dwelling, all criteria of LP Policy DM32 are met other than the two concerning visual impact, over which a judgment is required.
12. The proposed bungalow would be of a somewhat greater mass and volume than the existing building, although of a slightly lesser height. It is of an inoffensive, quite acceptable design with the option for conditions to govern suitable external materials and landscaping. In the light of these factors, the replacement dwelling would be of no greater visual harm than the existing building, which itself is rather innocuous. Furthermore, given the context within

² Planning policy for travellers. Department for Communities and Local Government August 2015.

a long-established gypsy and traveller site, the replacement bungalow would neither individually or cumulatively cause any material visual harm to the overall appearance of this area of countryside. I conclude therefore, that this proposal satisfies LP Policy DM32 and meets all its criteria for allowing a replacement dwelling outside of defined settlement boundaries.

13. However, the proposal should also comply more generally with the development plan and satisfy other relevant policy requirements. One of the principles of good design set out in LP Policy DM1 is to respect the amenities of neighbours and provide adequate living conditions for occupiers, with respect to matters such as outlook, privacy and light.
14. However, this policy needs to be applied in context, which here relates to a lawful dwelling sited on a site providing four gypsy and traveller pitches. The existing dwelling is already close to two of the four mobile caravan pitches at The Glen. The residential use has become established to meet the particular accommodation needs of an older couple. The proposal would not lead to an arrangement materially different to that existing at present. A small garden area might be defined for the new bungalow, as for the other mobile homes. As has been established, Mr and Mrs Jenkins are a gypsy couple who no longer pursue a traveller lifestyle. The proposal would allow them to live more comfortably and be looked after by members of their extended family. Taking into consideration these circumstances, I find no conflict with LP Policy DM1 in respect of this proposal securing acceptable living conditions for the bungalow's occupiers or those of other gypsy families with pitches on this site.
15. The existence of a lawful dwelling within an established gypsy and traveller site is a matter of fact. However, there is also an imperative to safeguard the existing provision of gypsy and traveller pitches at The Glen, given the high demand for, and pressure on rural sites, within Maidstone District for this kind of accommodation. As discussed at the Hearing, this proposal provides an opportunity to apply a degree of planning control over both living conditions and gypsy and traveller pitch retention, given the red line in the application encompasses The Glen as a whole, not just the new dwelling.
16. Subject to the conditions discussed below, I conclude that in the circumstances described the proposed replacement dwelling would be acceptable with regard to the character and appearance of the area, the living conditions of occupiers of The Glen and its location within an established gypsy and traveller site. As such I find the proposal to comply with the development plan as a whole.

Conditions

17. The conditions suggested by the Council were discussed at the Hearing. I have considered those required in light of the advice in paragraph 55 of the National Planning Policy Framework. This states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
18. A standard condition imposing the statutory time limit for commencement is needed along with another that sets out the approved plans, in the interests of certainty. In the interests of the visual appearance of the development, and to provide acceptable living conditions within the site, implementation of an agreed hard and soft landscaping scheme is required. This then provides the

means to delimit the garden/curtilage to the replacement dwelling and secure the remaining parts of The Glen for gypsy and traveller accommodation. A further condition then requires the soft landscaping to be carried out in the planting/seeding seasons following occupation of the replacement dwelling.

19. As the proposal is to retain the four gypsy and traveller pitches at The Glen, conditions are required governing occupation of these and the number of caravans.
20. In the interests of the satisfactory appearance of the new bungalow, a condition requires external materials to be agreed. Further conditions are necessary to ensure agreed waste and surface water drainage and electric vehicle charging measures are provided. Finally, the exceptional circumstances exist for a condition restricting normal permitted development rights for other buildings and means of enclosure, other than as agreed by a separate condition or otherwise by the Council.

Conclusion

21. The Glen comprises a long-established gypsy and traveller site with no caravans currently in situ but containing a lawful dwelling that is not subject to any occupancy restriction. The status of the site might thus be considered to have a mixed residential/gypsy and traveller site use. The proposal better meets the current accommodation needs of a gypsy couple whose travelling days are behind them. There would be no material harm resulting to the character and appearance of this rural area. In addition to the bungalow providing improved living conditions for the present occupiers on this site, these would remain acceptable for any future occupiers of the gypsy and traveller pitches.
22. Allowing this proposal provides a means of defining the extent of residential use and retaining control of the gypsy and caravan pitches and securing the retention of these for occupation as and when required. Therefore, for the reasons outlined above and having considered all other matters raised, I conclude that the appeal should be allowed subject to the conditions scheduled below.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown

Philip Brown Associates

Mr Tom Jenkins

Mrs Marion Jenkin

FOR THE LOCAL PLANNING AUTHORITY:

Mr Francis Amekor

Maidstone Borough Council

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The replacement dwelling hereby permitted shall be built in accordance with the following approved plans: location plan date stamped 15 May 2018; bungalow ground floor layout drawing no 217/57-07; bungalow elevations proposed drawing no 217/57-09; proposed site layout/block plan 217/57-06 A.
- 3) The development shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping within the site that shall include details of a residential curtilage and garden area demarcated around the replacement dwelling and any amendments to the arrangement of gypsy and traveller pitches. The dwelling hereby approved shall not be occupied until the agreed hard and soft landscaping scheme, including a demarcated residential curtilage and garden, have been implemented and the site shall thereafter be retained and maintained as approved.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling hereby allowed and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 5) Other than in respect of the dwelling hereby allowed, and its residential curtilage and garden established by condition 3 (above), the site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).

- 6) There shall be no more than four pitches on the site with no more than eight caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) stationed at any time of which only four shall be static caravans.
- 7) Other than demolition work, no development shall commence above slab level until details / samples of the materials to be used in the construction of the external surfaces of the replacement dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 8) Other than demolition work, no development shall take place above slab level until details of a sustainable drainage scheme for the disposal of surface water and waste water have been submitted to and approved by the local planning authority. The scheme shall be implemented prior to occupation of the replacement dwelling and thereafter managed and maintained in accordance with the approved details.
- 9) Prior to occupation of the proposed new dwelling a minimum of one electric vehicle charging point shall be installed and ready for use and in accordance with details that have previously been submitted to and approved in writing by the local planning authority that includes a programme for installation, maintenance and management with the points retained thereafter and maintained in accordance with the approved details.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those approved under conditions 2 and 3 (above) shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
