



Appeal Decision

Site visit made on 14 June 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2021

Appeal Ref: APP/U2235/W/20/3262682

Seaview Farm, South Street Road, Stockbury, Kent ME9 7QS

- 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 Diane Butler against the decision of Maidstone Borough Council.
 - The application Ref 20/502907/FULL, dated 9 July 2020, was refused by notice dated 3 September 2020.
 - The development proposed is described as "*demolition of existing dilapidated storage barn and replacement with new gym/games room/home office outbuilding and detached garage.*"
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Decision

1. The appeal is allowed and planning permission is granted for the development described as "*demolition of existing dilapidated storage barn and replacement with new gym/games room/home office outbuilding and detached garage*" at Seaview Farm, South Street Road, Stockbury, Kent ME9 7QS in accordance with the terms of the application Ref 20/502907/FULL, dated 9 July 2020, subject to the conditions listed below: -
 - a. The development hereby permitted shall begin no later than three years from the date of this decision.
 - b. The development hereby permitted shall be carried out and retained in accordance with the materials as specified on the planning application form and in accordance with the following approved plans: 42859/01; 42859/03; 42859/04 and 42859/05.
 - c. No external lighting shall be put in place or operated on the site at any time other than that which has previously been submitted to and approved in writing by the Local Planning Authority.
 - d. The development hereby permitted shall not be occupied until a scheme for the enhancement of biodiversity at the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the buildings as well as around the site by means of bat and bird boxes. The development shall be implemented in accordance with the approved scheme for the enhancement of biodiversity prior to the buildings coming into use and all biodiversity features as installed at the site shall thereafter be maintained over the lifetime of the development.

- e. The outbuilding and garage hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the occupancy and use of the gypsy and traveller site as granted planning permission under planning reference 18/501979/FULL.

Preliminary Matter

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issue

3. The main issue relating to this appeal is the effect of the proposed development upon the character and appearance of the countryside and Kent Downs Area of Outstanding Natural Beauty (the AONB).

Reasons

4. Seaview Farm is an existing gypsy and traveller site that comprises collectively five residential mobile homes. The proposal forms part of a site that gained planning permission in 2018 for use and occupation as a gypsy and traveller site. Condition 1 of the 2018 planning permission requires the occupiers of the site to be those who satisfy the definition set out within Annex 1 of the Planning Policy for Travellers Sites August 2015 (the PPTS).
5. The Council contend that given the size of the building it would not be incidental or ancillary to the nearby caravans or associated with any residential curtilage. It is also contended that the proposal would represent new primary residential floorspace and that it is not a dayroom, rather a self-contained recreational use that would not be essential accommodation for the occupiers of the existing site.
6. The proposal is to demolish an existing storage barn located within the site and replace it with two new outbuildings which, the appellant advises, would be incidental to the existing residential use and occupation of the site. Indeed, the application red line boundary incorporates the existing storage barn and five caravans. The appellant explains that the additional recreation facility and home office cannot be provided within the existing mobile homes due to their restricted internal space and would provide replacement vehicle parking and storage for the occupiers that is currently provided within the existing storage building. On the available evidence I am satisfied that the proposal would be ancillary to the existing use and occupation of this gypsy and traveller site.
7. The Council has referred to Policy DM15 of the Maidstone Borough Local Plan October 2017 (the Local Plan) that relates to Gypsy, Traveller and Travelling Showpeople accommodation. This policy allows for gypsy and traveller accommodation subject to criteria. Given this is an existing traveller site the criteria requiring the development not to result in significant harm to the landscape and rural character of the area and its cumulative effect in combination with existing lawful caravans is the most applicable part of this policy to this case.

8. Policy SS1 states that the Kent Downs AONB will be conserved and enhanced. Policy SP17 of the Local Plan states, amongst other matters, that great weight should be given to the conservation and enhancement of the Kent Downs AONB and the development should not have a significant adverse impact on the settings of the AONB. Reflecting this the Framework requires great weight to be given to the conserving and enhancing the landscape and scenic beauty of National Parks, the Broads and AONBs, which have the highest status of protection in relation to these issues. Policy DM1 sets out principles of good design which includes, amongst other matters, particular attention to be paid in rural areas for development to reflect and respect the local and natural character of the area. Policy DM30 seeks to ensure development within the countryside is of high-quality design.
9. In addition to the Local Plan the Kent Downs AONB Management Plan 2014-2019 provides a framework for conserving and enhancing the natural beauty of the area. Policy DM30 indicates that account should be taken of the Management Plan.
10. One of the outbuildings would be located in much the same position as the existing store, although it would have a smaller footprint to that of the existing store building. The proposed garage would occupy undeveloped land close to the existing store building. The combined footprint of the proposed outbuildings would be similar to that of the footprint of the existing storage barn. Both buildings would be single storey, similar to all the existing residential mobile homes at the site. Furthermore, the outbuildings would not be significantly taller than the existing storage building and would be of an improved design and appearance to that of the existing barn structure.
11. Irrespective as to whether the space would comprise a dayroom or recreational/office space, overall, the resulting layout of development at the site would not be substantially altered. The proposed uses of the buildings would be contained within the existing gypsy and traveller site, similar to that of the store building that would be replaced.
12. The outbuildings would not have any substantially greater visual impact than the existing established use of the site and existing structures present at the site. Therefore, the proposal would not significantly alter the character or appearance of the site. The site is well screened around its boundaries and the proposed development, similarly to that of the existing storage building, would not be appreciably perceptible from outside the site. As the proposal would be contained within the site there would be no impact on the wider countryside beyond the established gypsy and traveller site. The proposal would not have a greater visual impact upon the rural and landscape quality of the AONB than that of the development already at the site.
13. For these reasons, I conclude that the proposed development would not harm the character and appearance of the countryside and the landscape and scenic quality of the AONB. As such, the proposed development is in accordance with Policies SS1, SP17, DM1, DM15 and DM30 of the Local Plan, the Kent Downs AONB Management Plan and the provisions of the Framework.

Other Matters

14. I have been referred to an appeal decision at 'Land at Rosewood Farm' where relevance of that appeal relates to the location of that proposal within the

AONB. An extract provided from that appeal decision indicates that the Inspector in that case considered the proposal would “*introduce permanent building with the appearance of a permanent residential dwelling (rather than the more transient and temporary appearance of the existing derelict lean to)*”. However, I have not been provided with the full details of that case and whether that proposal related to a new or existing traveller site. Furthermore, I have not been provided with details of that existing lean to or its condition that might enable me to assess the similarity of its condition, if any, to that of the storage barn that is before me.

15. Further to the above, I accept the existing barn structure at this site is in poor condition, however, I saw at my visit that it was being used for storage purposes and, as such, is not derelict. Whilst constructed partly of brick and corrugated iron, I see no substantive reason that would suggest that the existing barn was not intended to be a permanent structure, noting the Council points to historic photographs which indicate that the structure has been in place for a considerable period of time.

Human Rights

16. I have had regard to the Human Rights Act 1998 and rights under Articles 3 and 8 of the Public Sector Equality Duty under the Equality Act 2010 in respect of private and family life and the home and the rights of the children. I have found the proposed development to be acceptable, therefore, there would be no interference of human rights on this occasion. In succeeding, the appeal would allow for two outbuildings at an existing gypsy and traveller site. Weighing this against public interest the replacement of the existing store with two outbuildings would not compromise the character and appearance of the countryside and the AONB.
17. In exercising my function on behalf of a public authority I am also 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 the appellant’s traditional way of life.

Conditions

18. I have considered the planning conditions suggested by the Council in light of paragraph 56 of the Framework and the advice in the Planning Practice Guidance. I consider the standard time limit condition to be appropriate. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans and materials. In the interests of the night-time rural environment, the ecological interests of the site, and residential and local amenity generally, a condition is necessary to limit lighting at the site. A condition to enhance biodiversity at the site in the future would also be appropriate in the interests of ecology. To ensure the appropriate use of the development, it is necessary to tie its occupancy and use to purposes ancillary to the existing gypsy and traveller use of the site.

Conclusion

19. For the reasons set out above, and subject to the conditions listed, this appeal should be allowed.

Nicola Davies
INSPECTOR