
Appeal Decision

Hearing Held on 9 November 2021

Site visit made on 8 November 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06/12/2021

Appeal Ref: APP/U2235/W/20/3255646

Eden Park Farm, Love Lane, Headcorn, Kent TN27 9HL

- 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 J Wenman against the decision of Maidstone Borough Council.
 - The application Ref 19/505750/FULL, dated 15 November 2019, was refused by notice dated 22 January 2021.
 - The development proposed is the change of use of land for a 2 pitch Gypsy site with associated development (utility block, hard standing, landscaping) – part retrospective.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for a 2 pitch Gypsy site with associated development (utility block, hard standing, landscaping) – part retrospective at Eden Park Farm, Love Lane, Headcorn, Kent TN27 9HL in accordance with the terms of the application, Ref 19/505750/FULL, dated 15 November 2019, subject to the conditions set out in Schedule 1 of this decision.

Main Issue

2. The main issue in this appeal is the effects of the proposal on the landscape character of the area.

Reasons

3. Local Plan Policy DM15 relates to gypsy, traveller and travelling showpeople accommodation and states that planning permission will be granted if the site is allocated for that use or if 5 criteria are met. The Council's reason for refusal alleges harm to the open and undeveloped rural character of the site, contrary to the second criterion of this policy, which states that the development should not result in 'significant harm' to the area.
4. Policy SS1 sets out the spatial strategy between 2011 and 2031 which includes the provision of 187 gypsy and traveller pitches through the granting of permissions and the allocation of sites and, amongst many other things, states that landscapes of local value will be conserved and enhanced. The supporting text explains at paragraph 4.9 that the figures derived from the January 2012 Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) were rolled forward a further 5 years to 2031 resulting in the 187-pitch figure.

5. Development will not be permitted in the countryside under Policy SP17 unless it will not result in harm to the character and appearance of the area. The site lies within the Low Weald Landscape of Local Value and paragraph 4.117 sets out the characteristics to be conserved and enhanced where appropriate. Policy DM3 requires new development to protect and enhance the natural environment by incorporating measures where appropriate to, among other things, protect positive landscape character and Policy DM30 details design principles in the countryside.
6. Planning Policy for Traveller Sites (PPTS) of August 2015 sets out the Government's policy with regard to such site provision. It states that the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life, while respecting the interests of the settled community. Policy B states the need for Councils to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets, and Policy H sets out considerations in determining applications for traveller sites. Paragraph 24 details issues that should be considered, amongst other relevant matters.
7. The appeal site is within an area defined in the Local Plan as the *Low Weald Landscape of Local Value*. The Maidstone Landscape Character Assessment places the site within the Headcorn Pasturelands where key characteristics are identified as a low-lying landscape, reservoirs, drainage ditches, enclosed pasture, sparse development with scattered farms and small hamlets, and mature oaks within pastures and mature hedgerow trees. The condition of the character area is stated to be 'good' and the sensitivity 'high', leading to a need to conserve.
8. The appeal site was the subject of an appeal for a similar form of development (Ref; APP/U2235/W/18/3206450) which was dismissed in May 2019. I have also been provided with details of appeal decisions relating to other sites on Love Lane for similar forms of development which have been granted (Refs; APP/U2235/W/18/3198435 dated June 2019 and APP/U2235/W/17 3192403 and others covering 5 adjacent sites, dated August 2019).
9. The identified Pasturelands covers a large area and much of it appears to contain the features identified above. However, I consider that the appeal site is set within a distinct area enclosed by Love Lane and Smarden Road which contains numerous forms of development including buildings, caravans and associated features. The land is divided into plots and it does not wholly align with the attributes which apply to the wider area. With this in mind, my assessment of the characteristics of the area around the appeal site, as identified, more closely associate with the finding of the Inspectors when determining the appeals referenced above, rather than that within the previous decision for this appeal site.
10. The appeal scheme envisages use of the existing access, which also serves the adjacent barn. The proposal would be set away from the barn and would be on the southern edge of the site, closer to the site boundary with Smarden Road. I note that this differs from the previous appeal at this site wherein the proposed pitches would have been adjacent to the barn. Additional tree and shrub planting is indicated close to the entrance which would help to screen the proposal when viewed from the entrance to the site. It is accepted that the

proposal would be visible from Smarden Road and also Love Lane. Smarden Road is wider and has straight sections which appears to carry more vehicles and Love Lane is narrower and quieter and would appear to attract pedestrians, cyclists and horse-riders. The views into the site from the roads would be filtered by the existing vegetation which would offer more screening in the Summer months. Set against the characteristics of the larger area containing the appeal site, I consider that the level of harm that would result would be moderate and not severe enough to be termed 'significant'. In addition, the imposition of the suggested Site Development Scheme would further reduce the harm to the area.

11. In relation to Policies SS1 and SP17 with their requirement to conserve and enhance landscapes of local value, the Framework states that an approach commensurate with the status of the area should be taken. There is no statutory designation, and the qualities identified in the development plan for the local value are not fully present at the appeal site or in its surroundings. Taking account of the requirements of suitable conditions which could secure mitigation, I consider that the aims of these policies together with Policies DM3 and DM30 would be met and the wider character and appearance of the Headcorn Pasturelands would be conserved.

Other Matters

12. There was some discussion at the Hearing in relation to the need for additional pitches within the Borough and the Council's ability to demonstrate a suitable supply of sites. The outcome of any such assessment could either be neutral as far as the appeal is concerned (if it revealed an adequate supply of sites) or it could add weight to the appellant's case (if it found that the supply was inadequate). Therefore, as I have concluded that the proposal is acceptable on its own merits, there is no need to further assess the supply of sites as it could only be neutral or add to the weight in favour of the appeal.
13. Similarly, the personal and family circumstances of the appellant have been submitted as part of the appeal. At worst, the effects of this would be neutral, if I gave them little weight, or they would further enhance the appellant's case if I attached weight to them. Therefore, there is no need for me to assess these matters.

Conditions

14. I have considered the Council's suggested conditions in the light of the advice in the Framework and the Planning Practice Guidance. The development has already commenced and the standard time limit for commencement is therefore not necessary. As referred to above, mitigation is essential and should be controlled by condition seeking a Site Development Scheme. I have included a condition that identifies the approved plans, for the sake of clarity.
15. As the site is suitable for occupation by anyone meeting the definition of a gypsy or traveller I shall include a condition which restricts its occupation only by people meeting that description and to a maximum of 5 caravans being stationed at the site at any one time. I have also included conditions preventing commercial activities and the parking of vehicles above a certain size so that the development has no undue effects on its surroundings.

16. The Council have asked that an electric vehicle charging point should be installed at the site. The appellant is concerned that this would be a redundant feature which may become obsolete. The appellant considers that, if any occupier of the site were to acquire an electric vehicle, then they would install a charging facility at that time and the presence of a charging point now would have little influence on them buying or using an electric vehicle. In the particular circumstances of this case, I agree with the appellant and find that it is not necessary to require an electric vehicle charging facility.

Conclusions

17. For the reasons set out above, the appeal is allowed.

T Wood

INSPECTOR

SCHEDULE 1, Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Day Room plans and elevations; Plan 1 Location Plan; Plan 2 Proposed Site Plan.
- 2) Within 12 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority, and retained in perpetuity. The Scheme shall include details of the following:
 - a) the means of foul and surface water drainage of the site
 - b) a hard and soft landscaping scheme including details of the means of enclosure of the residential element of the application site (in the south-eastern corner), the entrance gates and piers, showing existing and proposed tree and hedgerow planting to thicken the boundary treatment of the site and specifically for the formation of a landscape buffer on the perimeter of the site including details of species, plant sizes and proposed numbers, densities and ongoing future maintenance,
 - c) details of bin and cycle storage, and refuse collection,
 - d) all existing external lighting with measures to be fitted to prevent light spillage outside the site
 - e) details of a scheme for the enhancement of biodiversity on the site. The scheme shall consist of the enhancement of biodiversity through at least one integrated method into the design and appearance of the building structure such as swift bricks, bat tubes or bee bricks, and additionally through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors, and
 - f) the said Scheme shall: i) include a timetable for its implementation. (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if 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 and thereafter maintained and retained as approved.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out by the end of the first planting and seeding seasons following the occupation of the site; 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.

- 4) 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).
- 5) No more than 5 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 2 shall be static caravan) shall be stationed on the site at any time.
- 6) No vehicle over 7.5 tonnes shall be stationed, parked or stored on this site.
- 7) No commercial activities shall take place on the land, including the storage of materials.

APPEARANCES

FOR THE APPELLANT:

A Heine, Planning Consultant
J Wenman, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

J Miller, Senior Planning Officer