



Appeal Decisions

Hearing held on 15 March 2022

Site visit made on 15 March 2022

by Tom Gilbert-Wooldridge BA MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 APRIL 2022

Appeal A Ref: APP/U2235/W/19/3219674

Oak Tree Farm, Lenham Road, Headcorn, Kent TN27 9LG

- 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 Michelle Jordan against the decision of Maidstone Borough Council.
 - The application Ref 18/503291/FULL, dated 16 June 2018, was refused by notice dated 5 October 2018.
 - The development proposed is change of use of land to use as a residential caravan site for two gypsy families with a total of 3 caravans including no more than 2 static caravans/mobile homes.
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Appeal B Ref: APP/U2235/W/19/3242701

Oak Tree Farm, Lenham Road, Headcorn, Kent TN27 9LG

- 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 Michelle Jordan against the decision of Maidstone Borough Council.
 - The application Ref 19/501788/FULL, dated 4 May 2019, was refused by notice dated 11 June 2019.
 - The development proposed is change of use of land to use as a residential caravan site for two gypsy families with a total of 3 caravans including no more than 2 static caravans/mobile homes.
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Decision Appeal A

1. The appeal is allowed, and planning permission is granted for the change of use of land to use as a residential caravan site for two gypsy families with a total of 3 caravans including no more than 2 static caravans/mobile homes at Oak Tree Farm, Lenham Road, Headcorn, Kent TN27 9LG in accordance with the terms of the application, Ref 18/503291/FULL, dated 16 June 2018, subject to the conditions in Annex 1.

Decision Appeal B

2. The appeal is allowed, and planning permission is granted for the change of use of land to use as a residential caravan site for two gypsy families with a total of 3 caravans including no more than 2 static caravans/mobile homes at Oak Tree Farm, Lenham Road, Headcorn, Kent TN27 9LG in accordance with the terms of the application, Ref 19/501788/FULL, dated 4 May 2019, subject to the conditions in Annex 2.

Background Matters

3. The two appeals relate to the same site area at Oak Tree Farm. Planning permission was granted by the Council in June 2013 (ref MA/10/1522) for the change of use of land from agriculture to a mixed use for agriculture, the keeping of horses, the stationing of two mobile homes for residential use and the storage of one touring caravan, with various operational development.
4. The 2013 permission was personal to the then occupant of the site (who met the government's planning policy definition of gypsies and travellers) and her resident dependents. As a consequence of this permission, one of the mobile homes and a summerhouse at the far end of the site were relocated towards the front of the site nearer to Lenham Road and the other mobile home. At the hearing, the parties agreed that these structures remain in this amended position.
5. In 2015, the appellant sought to amend the 2013 permission to allow occupation of the site by a different gypsy family, but this application was not determined and was finally disposed of by the Council in early 2018. The parties accepted that the 2013 permission is no longer extant. The appellant submitted a fresh planning application in June 2018 (now Appeal A) for the use of the land as residential caravan site with the two mobile homes located in their current positions.
6. Following refusal of this application, the appellant submitted another planning application in May 2019 (now Appeal B) for the same development but with both mobile homes located next to the front boundary hedgerow along Lenham Road. The submitted plan also included a number of proposed landscaping measures. In both appeal schemes, the summerhouse would be removed.
7. Both appeals were submitted in 2019, but there was a lengthy delay in holding the hearing largely due to the effect of the pandemic. The parties were afforded the opportunity to update their hearing statements and I have taken these updates into account.

Main Issues

8. The main issues for both appeals are:
 - the effect of the development on the character and appearance of the area; and
 - whether any harm would be outweighed by other material considerations.

Reasons

Character and appearance

9. Policy DM15 of the Maidstone Borough Local Plan 2017 (LP) deals with gypsy, traveller and travelling showpeople accommodation. The second criterion of the policy states that permission will be granted if the development would not result in significant harm to the landscape and rural character of the area. Regard is to be had to local landscape character, cumulative effect (with existing lawful caravans) and existing landscape features (where development is well screened by existing landscape features and there is a reasonable prospect of such features' long-term retention). Additional planting should be

used to supplement existing landscaping but should not be the sole means of mitigating the impact.

10. The site is situated on the eastern side of Lenham Road. The front boundary largely consists of a mature native hedgerow along with metal entrance gates. A conifer hedgerow forms much of the southern boundary as well as part of the northern boundary, with native species along the remaining edges. There are two mobile homes and a summerhouse within the site served by an area of hardstanding that also provides parking space for vehicles and a touring caravan. One mobile home is next to the front hedgerow and the other is situated slightly further into the site in front of a large pond. The remainder of the site is laid to grass and split between a garden and a paddock.
11. The site is located within the Low Weald Landscape of Local Value as designated by the LP. The Low Weald is described in the LP as having distinctive landscape features including field patterns (many of medieval character), hedgerows, stands of trees, ponds and streams, and buildings of character. The landscape has a gently undulating form with only scattered housing, farmsteads or hamlets and a few narrow lanes like Lenham Road. The landscape is generally attractive with an agricultural and rural quality. A similar landscape designation was in place at the time of the 2013 permission. The site also falls within the Headcorn Pasturelands Landscape Character Area as a low lying landscape which forms part of the wider Low Weald and shares many of the same characteristics.
12. Lenham Road runs through this landscape north-eastwards from Headcorn. The countryside either side of the road exhibits many of the above qualities but also contains several gypsy and traveller sites that have a contrasting character and appearance. These sites vary in size and orientation, but typically involve large amounts of hardstanding and fencing, with a number of mobile homes and touring caravans visible from the road.
13. The site lies within one of the main clusters of gypsy and traveller sites, some of which are unauthorised and subject to enforcement action, such as Acers Place to the south and The Meadows to the north. There are three authorised sites immediately to the north of the site on the opposite side of the road either side of the access into The Meadows. One of these sites at Smith's Cottage is quite prominent with its hardstanding and fencing visible from the road, although it also contains a number of unauthorised caravans. The other two sites on the other side of the Meadows' access are bounded by a tall fence along the access but have good screening from Lenham Road by a mature native hedgerow. There are also structures and buildings associated with two stables and a farm on the north-eastern edge of this cluster.
14. The site already has a good level of screening from the road thanks to the mature hedgerow. Even in winter, the mobile home next to the hedge is difficult to see due to the density of planting. The mobile home in front of the pond is more obvious from the site entrance and can also be seen in views from the road to the north-east. However, such views are glimpses and filtered by existing vegetation. The hardstanding is only visible when the gate is open, and the gate itself has stark urban appearance. At my site visit, I observed that external lighting was modest and discreetly sited.
15. The Appeal A development would retain the two mobile homes in the same position but would extend the garden/paddock into the existing area of

hardstanding along the southern boundary. The visual impact of the mobile home by the pond can be offset by enhancing and reinforcing the existing hedgerows via a condition that both main parties have agreed upon. There is also scope to replace the gate with a more sympathetic design and control external lighting via the same condition.

16. The Appeal B development would ensure that both mobile homes would be screened by the existing front boundary hedge and would be largely unseen from the road. The incongruous conifer hedge along the southern and northern boundaries would be replaced with native planting that in time would provide similar levels of screening. The paddock would be extended around the pond and across the area currently occupied by the mobile home. The proposed landscaping scheme can be secured via an agreed condition which would also allow for a more sympathetic five-bar gate and would control external lighting.
17. In either appeal, the development with appropriate mitigation measures would be low key and less visible than the authorised gypsy and traveller sites on the opposite side of the road as well as the stables and farm buildings to the north-east. Both appeal schemes would be in keeping with the wider landscape character in terms of the existing and proposed boundary planting and would also reflect the scattered form of development in the surrounding area. Thus, the cumulative effect of the development in either appeal would not be harmful. If the various unauthorised sites were removed and returned to agricultural fields, the site with appropriate boundary planting would remain low key. I have no reason to doubt that the planting could be maintained, improved, and retained in the long-term.
18. The Inspector in the Acers Place decision¹ from August 2018 found that the presence of authorised gypsy and traveller sites on Lenham Road were not enough to have become a constituent part of the overall landscape character and that they did not justify the appeal scheme he was dealing with. He found the Acers Place site to have a harmful effect both on its own and cumulatively with authorised sites. I agree that the authorised sites are not an integral part of the landscape. Nevertheless, I have assessed these appeals based on the site-specific details and found the effects to be acceptable in this instance.
19. In conclusion, the development in either appeal would not have a harmful effect on the character and appearance of the area. Therefore, the developments would accord with LP Policy DM15. They would accord with LP Policy DM30 which, amongst other things, requires developments to maintain and enhance landscape features and appropriately mitigate impacts. They would also accord with LP Policies SS1 and SP17 which require development in the countryside to protect rural character and not result in harm to the character and appearance of the area.
20. The developments would also reflect paragraph 174 of the National Planning Policy Framework (NPPF) which seeks to protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. They would also reflect paragraph 26 of the Planning Policy for Traveller Sites 2015 (PPTS) which seeks the use of soft landscaping to enhance the environment and advises against the use of too much hard landscaping, walls and fences.

¹ APP/U2235/C/17/3189217

Other considerations

21. The site is located to the north-east of Headcorn, a settlement with a range of day-to-day facilities and connections to larger settlements. The nature of Lenham Road and the countryside location means that the occupants of the site are likely to be reliant on private vehicles to access these facilities. However, the development in either appeal involves only two gypsy families and the distance to Headcorn is not excessive. Therefore, the development in either appeal would not be harmful in terms of locational sustainability having regard to the NPPF and the PPTS.
22. I have insufficient evidence to show that the Headcorn area has taken more than its share of gypsy and traveller sites. The development in either appeal is modest, while the scale and number of existing authorised sites nearby are limited. Thus, the development in either appeal would not dominate the nearest settled community having regard to the PPTS.
23. Intentional unauthorised development has been a material consideration to weigh in the determination of planning applications and appeals received from 31 August 2015 onwards (as set out in the government's policy statement of the same year). The appellant has occupied the site for a number of years without authorisation, notwithstanding that she has sought to gain planning permission since at least 2015 by first seeking to vary the 2013 permission and then applying in 2018 and 2019 for the developments that are subject to these two appeals. Nevertheless, given the lack of harm arising from either appeal scheme, this consideration does not justify the refusal of planning permission.
24. At the hearing, there was discussion of the need for gypsy and traveller sites within the local area and the personal circumstances of the appellant. However, due to the lack of harm to the character and appearance of the area, it is not necessary for me to address these considerations in any detail. As the development in both appeals complies with the development plan and national policies, and there are no other considerations that indicate otherwise, planning permission should be granted. In either appeal, the development would represent sustainable development as sought by the NPPF and the PPTS.

Conditions

25. I have imposed very similar conditions on each appeal decision. Conditions 1, 3, 5, 6 and 7 are necessary to ensure that the developments have an acceptable effect on the character and appearance of the area in terms of the size, siting and number of caravans and the provision of appropriate landscaping, lighting, and boundary treatments. It is not necessary to refer to no commercial activity in Condition 5 as the developments are for residential use only and such activity would likely require separate permission.
26. Condition 7 is also necessary to control the provision of surface and foul water drainage. Condition 2 specifying that the occupants of the development should meet the PPTS definition is necessary as the appeals have been assessed against LP Policy DM15 and the PPTS relating specifically to gypsies and travellers. Condition 4 is necessary in the interests of highway safety along Lenham Road as well as the character and appearance of the area.

Conclusions

27. For the above reasons, and having had regard to all other matters raised, I conclude that both appeals should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch	Murdoch Planning Limited
Michelle Jordan	Appellant
Graham Jordan	Appellant's husband
Mick Harrington	Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Robert McQuillan	Robinson Escott Planning LLP
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DOCUMENTS SUBMITTED DURING AND AFTER HEARING

1. Planning history for Acers Place, Lenham Road, Headcorn
2. Report on the examination of the Maidstone Borough Local Plan
3. Amended wording for Condition 7 agreed by both main parties

Annex 1: Conditions for Appeal A (APP/U2235/W/19/3219674)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Block/Site Plan.
- 2) The site shall not be occupied by any persons other than gypsies and travellers, as defined in Annex 1 of Planning Policy for Traveller Sites published in August 2015.
- 3) No more than 3 caravans (of which no more than 2 shall be static caravans/mobile homes) shall be stationed on the site at any time. The static caravans/mobile homes shall be stationed on site only in the positions shown on the approved plans. All caravans stationed on the site shall comply with the definition of caravans as set out in Section 29 of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1968, as amended.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No storage of materials shall take place on this site.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting or amending that Order) no gates or walls or fences or other means of enclosure including bunding, shall be erected or placed within/to the boundaries of the site.
- 7) 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 28 days 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, hereafter referred to as the Site Development Scheme, including foul and surface water drainage; areas of fencing and other means of enclosure; external lighting; and hard and soft landscaping including details of species, plant sizes and proposed numbers and densities and measures for their protection and retention, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - (ii) within 6 months of the date of this decision the Site Development 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 Site Development 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 works comprised in the Site Development Scheme shall be thereafter retained for the duration of the development.

Annex 2: Conditions for Appeal B (APP/U2235/W/19/3242701)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Drawing Number TDA.2460.01 Rev B
- 2) The site shall not be occupied by any persons other than gypsies and travellers, as defined in Annex 1 of Planning Policy for Traveller Sites published in August 2015.
- 3) No more than 3 caravans (of which no more than 2 shall be static caravans/mobile homes) shall be stationed on the site at any time. The static caravans/mobile homes shall be stationed on site only in the positions shown on the approved plans. All caravans stationed on the site shall comply with the definition of caravans as set out in Section 29 of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1968, as amended.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked, or stored on this site.
- 5) No storage of materials shall take place on this site.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting or amending that Order) no gates or walls or fences or other means of enclosure including bunding, shall be erected or placed within/to the boundaries of the site.
- 7) 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 28 days 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, hereafter referred to as the Site Development Scheme, including foul and surface water drainage; areas of fencing and other means of enclosure; external lighting; and hard and soft landscaping including details of species, plant sizes and proposed numbers and densities and measures for their protection and retention, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - (ii) within 6 months of the date of this decision the Site Development 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 Site Development 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 works comprised in the Site Development Scheme shall be thereafter retained for the duration of the development.