



Appeal Decision

Hearing Held on 28 March 2023

Site visit made on 28 March 2023

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 19 May 2023

Appeal Ref: APP/U2235/W/19/3239317

Land east of The Paddocks, George Street, Staplehurst, Kent TN12 0RA

- 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 Jimmy Brazil against the decision of Maidstone Borough Council.
 - The application Ref 18/506246/FULL, dated 23 November 2018, was refused by notice dated 18 April 2019.
 - The development proposed is the change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static caravan; laying of hardstanding and erection of two utility buildings.
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Decision

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, each with two caravans including no more than one static caravan; laying of hardstanding and erection of two utility buildings at Land east of The Paddocks, George Street, Staplehurst, Kent TN12 0RA in accordance with the terms of the application, Ref 18/506246/FULL, dated 23 November 2018 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS based Location Plan; Location Plan; Site Layout Plan; Amenity Building Front Elevation/Rear Elevation/Side Elevation/Side Elevation 2; Floor Plan Amenity Building; Post and Rail Fence Detail.
 - 3) No more than 4 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 a static caravans) shall be stationed on the site at any time.
 - 4) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of

such an organised group of travelling showpeople or circus people travelling together as such.

- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No development shall take place until details of a Site Development Scheme have been submitted to and approved in writing by the local planning authority. The Site Development Scheme shall include details of: any external lighting; the location of the static caravans and layout of the site including the siting of other caravans; the means of foul water drainage of the site; areas of hardstanding, including the materials to be used; fencing and any other means of enclosure; hard and soft landscaping including details of finished hard-surfaced materials, species, plant sizes, numbers and densities and soft landscaping maintenance details, shall have been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The development shall be carried out in accordance with the approved details and retained thereafter in the approved form.
- 8) 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 shown on the approved plans or those approved under conditions 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.
- 9) Prior to the commencement of development, a scheme for the protection of Great Crested Newts, including a detailed evidence-based assessment showing how an offence under the Conservation of Habitats and Species Regulations 2010 will not occur, the provision of compensatory/mitigation habitat, measures to minimise the area temporarily disturbed and a timetable for the implementation of the scheme has been submitted to and approved in writing by the local planning authority. Work shall be carried out strictly in accordance with the agreed method statements, exclusion plan and mitigation scheme, as approved, and in accordance with the approved timetable.

Main Issues

2. The main issues in this appeal are:

- The effects on local wildlife
- The effects of the proposal on the character and appearance of the area
- The effects of the proposal on highway safety.

Reasons

3. The Council's first reason for refusal related to the absence of any confirming evidence from the appellant that future residents of the site are Gypsies. The appellant's submissions indicate that the future residents are not yet known and, in these circumstances, if the appeal were to be successful, a condition requiring that residents of the site shall be Gypsies would be sufficient. This was agreed with the Council at the Hearing.

The effects of the proposal on wildlife

1. The Council, supported by Kent County Council, had refined their objections to the proposal and as a result, confirmed at the Hearing that their main concern relates to the likely effects of the proposal on Great Crested Newts (GCN), a protected species. The appellant has submitted an Ecological Report (ER) which draws from surveys in 2010 and 2019 and is an updated version of the report of 2018. In relation to GCN, it recognises that there is a body of water close to the east of the site boundary (outside the site) but assesses it as of low value for GCN due to the fact that it seasonally dries up and is in heavy shade with an absence of aquatic plants. The ER acknowledges that there are numerous other ponds within the wider area and indicates that these will be more favourable for GCN. Furthermore, it is stated that the close-mown nature of the appeal site and its use for grazing ponies means that it would be very unlikely to attract GCN.
2. The Council states that GCN will use ponds for breeding but will spend most of their time in terrestrial habitats, typically within 250m of a breeding pond. They state that there are 5 ponds within 250m of the appeal site. The appellant's evidence suggests that, as these other ponds are more than 150m from the appeal site and are surrounded by favourable habitat, it is unlikely that GCN will use the appeal site. These other ponds have not been surveyed.
3. From what has been submitted, it seems to me that GCN could be present on the site. At the Hearing and in post-Hearing correspondence, the Council confirmed that its concerns in relation to this matter could be addressed by the imposition of suitable conditions relating to measures for the protection of GCN and in relation to a suitable planting/landscaping scheme. In the light of this, I am satisfied that suitable measures could be put in place such that GCN would not be unreasonably affected by the proposal. Therefore, there would be no conflict in this respect with Policy DM 1 of the Maidstone Borough Local Plan (LP).

The effects of the proposal on the character and appearance of the area

4. The appeal site is a rectangular parcel of land located on the north side of George Street. The site has been used as pasture and is separated from the road by a hedge and some mature trees. The site is within the open countryside and sits within the Low Weald landscape. The edge of Staplehurst is approximately 0.5km away. The Council stated at the Hearing that the appeal site forms part of a larger site which is allocated for Gypsy and Traveller use in the LP. They stated that site GT1(10) is formed by the adjacent site of The Paddocks, and the appeal site. The Paddocks contains 2 pitches and the LP allocation is for 4 pitches.

5. George Street is a single-track road with no pavement and is bounded by mainly open land uses but with some forms of build development present, including houses, recreational buildings and some Gypsy sites, including one immediately to the west of the appeal site. The land is generally flat and divided into fields/parcels by hedges and tree belts. Sporadic clusters of buildings are present.
6. The proposal included the formation of a new access. However, since the appeal was made, the appellant has formed an access into the appeal site which he indicates was done as permitted development. Although no documentation was submitted which absolutely confirms that it was permitted development, taking account of documents submitted and the oral evidence given at the Hearing, it seems likely to me that it was undertaken as permitted development and I shall treat the access as existing and not forming part of this appeal, as was discussed at the Hearing. The proposal also involves the creation of 2 pitches, each with a static caravan, space for a touring caravan and an amenity building. The appellant has indicated that additional planting would be provided around the site's edges, including along the frontage.
7. It is likely that the proposed development would mean that the caravans and buildings would be visible to some degree from the adjacent road. The area is characterised by open land with clusters of buildings and many of these buildings are far more visible from the road than those on the appeal site would be, for example, the houses to the east are 2 storey in height and are not screened by hedges and trees, and form part of the existing character and appearance of the area.
8. I consider that the proposal on the appeal site would be partially screened by vegetation which could be augmented as part of the proposal. Any views of the appeal site would be from a very short section of George Street and those views would reveal a form of development that is consistent with that local character. Its effects would not represent the 'significant harm' to the landscape and rural character that is referred to in Policy DM 15 of the LP. In addition, the LP allocation for this site envisages that the original access to the west of the appeal site should be used. Notwithstanding this matter, I consider that the use of the newer but still existing access, would involve no harm to the area. Therefore, I find that no harm would arise from the development in this regard.

The effects of the proposal on highway safety

9. George Street is a narrow, single-track road subject to the national speed limit of 60mph. Based on this, the Council set out a requirement that the new access should have visibility splays of 2.4m x 203m. The appellant undertook traffic surveys which indicates that the road is not busy, carrying only small numbers of vehicles and that the average 85%ile speed is around 32mph in each direction.
10. The Council, supported by the Kent County Council as Highways Authority, are critical of the appellant's submissions in this respect as no information is given about the location of the survey and the weather conditions. Notwithstanding these reservations, the Council indicates that if the reported vehicle speeds are given credit, then the required visibility splays would be 2.4m x 45/47m. At the Hearing the appellant supplied details of the location and timing of the traffic survey, which to some extent satisfied the Council. However, there was

some suggestion that as the survey was more than 3 years old, it may be out of date. In this latter respect, the circumstances of the delay in the consideration of this appeal are not the responsibility of the appellant, who submitted the appeal with a, then, recent traffic survey. I doubt very much that traffic conditions would have altered significantly within the interim period, along this relatively quiet rural lane. In the absence of any other survey material, I shall give weight to the appellant's evidence in this respect.

11. At the Hearing, the Council indicated that, as the proposed use of the access would be low, then it would be appropriate to measure the visibility splays at a distance of 2m from the carriageway edge (rather than 2.4m). Although no plan has been produced, after measurements were taken at the Hearing, it was agreed that suitable visibility splays can be achieved at the access to the appeal site. Any interruption to visibility to the east would be by vegetation on the highway verge and it was further agreed by the County Council as Highways Authority that this would be capable of being cut back if necessary. As a result of these matters, I conclude that there would be no unacceptable effects on highway safety as a result of the proposal.

Conditions

12. The Council submitted a schedule of preferred conditions for discussion at the Hearing. I have had regard to the advice in the Planning Practice Guidance in relation to the use of conditions in planning permissions. Where necessary and in the light of the discussions at the Hearing, I have altered the wording of the submitted conditions.
13. I have included the standard time limit and a condition which identifies the approved drawings, for the sake of clarity and certainty. The proposal is specifically justified in relation to its use for Gypsies and Travellers and I shall include a condition which limits occupation of the site to these people only. So that the development has an acceptable effect on the locality I shall include conditions relating to the number of caravans, the prevention of commercial activities, the size of vehicles kept at the site, limiting any future development which may otherwise be permitted development and the implementation of an agreed Site Development Scheme.
14. In relation to controlling any likely effect on GCN I consider that a condition requiring a suitable protection/mitigation scheme is necessary and reasonable. I have few details of the alternative District Level Licence scheme, including the level of financial contribution, which the appellant raised some concerns about. Therefore, as both suggested conditions are said to be acceptable to the Council, I shall impose the one as set out above. I shall not impose the suggested personal permission, as requested by the Council as there is no justification for this. With regard to the requested planting of native species, I have included a requirement for landscaping within the Site Development Scheme; I have not specifically set out a requirement for native plant species but this would be open for the Council to require as part of such a scheme.

Conclusions and Decision

15. There was some discussion at the Hearing in relation to the need for and supply of such sites in the Borough. However, the Council's conclusion was that, as the appeal site forms part of a larger allocated site within the adopted Local Plan, the proposal would be helping to meet an acknowledged need and

that its principle is accepted. In these circumstance, further discussion on the matter was not necessary.

16. I have taken account of all other matters raised at the Hearing and in the submitted documents. For the reasons set out above, I conclude that the proposal would raise no conflict with the development plan and other policy matters. Therefore, the appeal is allowed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

P Brown
J Brazil Snr
J Brazil

FOR THE LOCAL PLANNING AUTHORITY:

B McQuillan
L Wallace
T Harris

INTERESTED PERSONS:

Cllr J Buller
Cllr J Perry