



Appeal Decision

Site visit made on 4 April 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2023

Appeal Ref: APP/E2205/W/22/3300055

Monkery Bottom , Faversham Road, Ashford, Kent, TN27 0NR

- 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 Fredrick Collins against the decision of Ashford Borough Council.
 - The application Ref 21/01442/AS, dated 27 July 2021, was refused by notice dated 9 December 2021.
 - The development proposed is the siting of an additional mobile caravan.
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Decision

1. The appeal is allowed, and planning permission is granted for siting of additional static caravan at Monkery Bottom, Ashford, TN27 0NR in accordance with the terms of the application, Ref 21/01442/AS, dated 27 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 210726/AT/01 Rev1, dated 16 August 2021.
 - 2) No more than 1no. caravan (mobile or static), as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the pitch at any one time.
 - 3) 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 dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Preliminary Matters

2. At the time of my site visit, I saw that a static caravan was occupying the site/pitch and note that the application has been submitted retrospectively. Therefore, whilst the description of the development in the banner heading above is taken from the application form, in my decision, I have inserted 'static' to more accurately reflect the scheme before me. I have dealt with the appeal on this basis.
3. For clarity and precision, this appeal relates only to the creation of an additional pitch with a static caravan, between the originally approved 2no. static caravans on the site. The terms and conditions of the approved

application¹ for the original site, including the 2no. static caravans will remain unaltered by the appeal scheme. Thus, the appeal scheme should be read alongside the permission for the original site. I have dealt with the appeal on this basis.

Main Issues

4. The main issues of this appeal are:

- the effect of the development on the character and appearance of the appeal site and surrounding Kent Downs Area of Outstanding Natural Beauty (AONB); and,
- the effect on Pollardsdane/Chantry Wood, which are designated as ancient woodland.

Reasons

Character and appearance of the AONB

5. The site lies within the countryside and forms an existing Gypsy and Traveller site in the AONB. Paragraph 176 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The Framework also notes that AONBs have the highest status of protection in relation to landscape and scenic beauty. Policies SP1, ENV3b, HOU16 of the Ashford Local Plan 2019 (LP) have similar objectives.
6. I travelled along Faversham Road in both directions and acknowledge that views of the site are possible, when travelling by car and on foot. However, given the conditions of the road and the lack of a footpath, it is likely that the majority of experiences would be from within a vehicle. The site also would be visible from the junction of Stalisfield Road, when entering Faversham Road. I am satisfied that I saw everything I need to assess the impact of the development. In this instance, the views are localised and would not be readily visible from wider public viewpoints, due to the surrounding topography/features.
7. I accept that the proposal involves additional bulk and massing being introduced to the site. However, the site-specific circumstances, with particular regard to the existing development on the site, including its capacity to accommodate the additional caravan forms a material consideration of significant weight. Additionally, the proposal is very similar to the existing caravans already on site. Consequently, the form of development including its layout, scale and appearance would follow the prevailing character and appearance of the site. It follows that the scheme does not appear cramped or forms an urbanising form of development. Furthermore, the additional caravan is not visually intrusive or forms an incongruous feature.
8. For the reasons given above, I conclude that the scheme does not create any significant harm to the character and appearance of the site, including the conservation and enhancement of the natural beauty of the AONB. The scheme therefore complies with LP Policies SP1, ENV3b, HOU16, which seek to conserve the natural environment; character, distinctiveness and sense of

¹ 91/01144/AS

place, conserve and enhance the natural beauty of the AONB and the form and extent of the accommodation would not adversely affect the visual or other essential qualities of the AONB and its setting, amongst other things. The scheme also accords with the requirements of the Framework.

9. In line with the statutory duty of s85(1) of the CROW Act 2000, and the requirements of LP Policy ENV3b and HOU16, I have given weight to the conservation (and enhancement) of the landscape and scenic beauty of the AONB. However, the changes are considered to be acceptable, as the development would be viewed within the context of the existing built form from local viewpoints. Thus, whilst there is some harm from the scheme, it would not be significant in respect of the built form or the wider landscape of the AONB, and therefore it would conserve the natural beauty of the AONB.

Ancient woodland

10. There is little detail surrounding the approved scheme that permitted the stationing of 2no. static caravans. The Council have referred to the Natural England and Forestry Commission 'standing advice' (SA) for ancient woodland, ancient trees and veteran trees in reaching its decision, which is a material planning consideration for local planning authorities.
11. Whilst recognising the reference to a 15-metre buffer zone in the SA, I also note the location and extent of the existing Gypsy and Traveller site, which does not benefit from a buffer zone and is adjacent to the ancient woodland. Thus, development has already occurred within the recommended 15m buffer zone and is used for residential purposes. The location of the other 2no. static caravans allowed under the approved scheme are already similar distances from the boundary with the ancient woodland to the appeal scheme.
12. Given the existing domestic characteristics of the site, including the approved number of caravans that has been established for many years, I do not consider in this instance that an additional caravan would result in the loss or deterioration of an irreplaceable habitat. Whilst the Council have raised specific concerns to potential soil compaction, there is nothing to support or substantiate this view. Furthermore, the findings from my visit do not indicate that an additional caravan in its current location would result in any notable direct or indirect effects on the ancient woodland. On the balance of probabilities, I find it highly likely that the siting of a third caravan on the site does not significantly exceed the previous established conditions as a consequence of the approved scheme, especially as the appeal scheme is still within the confines of the existing site.
13. For the reasons given above, I conclude that the scheme does not create any harmful impacts on the ancient woodland. Therefore, the scheme complies with LP Policies ENV1 and HOU16, which seek to safeguard features of nature conservation and the form and extent of the accommodation would not adversely affect the visual or other essential qualities of ancient woodland, amongst other things. The scheme also accords with the requirements of the Framework.

Other Matters

14. The Council states that currently there is an unmet need of 27no. pitches in the Borough and are unable to identify other pitches, either within the Borough or

beyond, that are available to the appellant and his family. Since 2020, the appellant has now moved into one of the original caravans and his daughter and her children have moved into the caravan, subject of this appeal. Consequently, the best interests of the children, which is a primary consideration, and the families' right to a home, would be served by a permission. Additionally, there is evidence of medical support being provided within the family unit. Whilst not determinative, these are factors that weigh in favour of the scheme.

Conditions

15. The Council has suggested conditions which it considers would be appropriate in its submission. I have reviewed these in accordance with the tests set out in the Planning Practice Guidance (PPG) and have amended the wording where necessary in the interests of clarity and simplicity.
16. A condition relating to the time limit for implementation is not required in this instance as the development has commenced. A condition surrounding the approved plans is required for certainty. To define the permission, a condition is required controlling the number of caravans on the pitch and it is also necessary to restrict occupation to those who are Gypsies and Travellers.
17. Whilst the Council have suggested a personal condition, the scheme is not reliant on personal circumstances and complies with the development plan, and is therefore not reasonable or necessary. Additionally, as the appeal scheme only seeks to create a single pitch on an existing site, it is not reasonable or necessary to include the original 2no. caravans on the site in the limitations. These are covered under the previously approved application.
18. A condition regarding inspection of the development to ascertain a breach of planning control has been suggested by the Council, but I have no doubt that this condition fails the tests as set out in paragraph 56 of the Framework and the PPG². In any case, there are already enforcement procedures within existing planning legislation that would be more suitable in the event of such circumstances.

Conclusion

19. Given my findings above, the proposal accords with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. The scheme also complies with the requirements of the Framework. I therefore conclude that the proposed development is suitable for the site.
20. For the reasons given above, I conclude that the appeal should be allowed.

W Johnson

INSPECTOR

² Paragraph: 003 Reference ID: 21a-003-20190723