



Appeal Decision

Site visit made on 16 January 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2024

Appeal Ref: APP/U2235/W/23/3323307

Neverend Farm, Pye Corner, Ulcombe, Kent ME17 1EF

- 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 Gilham against the decision of Maidstone Borough Council.
 - The application Ref 22/504521/FULL, dated 19 October 2022, was refused by notice dated 3 March 2023.
 - The development proposed is the use of land for the stationing of holiday log cabins (13 twin-unit caravans) and associated bases, roads, decking, veranda, lighting and drainage details, plus use of existing vehicular access on to Pye Corner.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of holiday log cabins (13 twin-unit caravans) and associated bases, roads, decking, veranda, lighting and drainage details, plus use of existing vehicular access on to Pye Corner at Neverend Farm, Pye Corner, Ulcombe, Kent ME17 1EF in accordance with the terms of the application, Ref 22/504521/FULL, dated 19 October 2022, subject to the conditions in the attached schedule.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. A revised Framework was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). Any references to the Framework hereafter in this decision are to the latest version.
4. The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.
5. The Council is currently preparing the Maidstone Local Plan Review (MLPR). The MLPR is undergoing Examination in Public, and the Council has recently consulted on the main modifications to the MLPR that the examining Inspector considers are necessary to ensure it can be made sound in accordance with the Framework. The MLPR is therefore at an advanced stage of preparation but has

not yet been adopted by the Council. I have little information to suggest when the plan is likely to be adopted, or if there are any unresolved issues. Accordingly, I attribute limited weight to this plan.

Main Issues

6. The main issues are the effect of the proposal on a) character and appearance of the countryside and b) highway safety.

Reasons

Character and appearance

7. The appeal site is located in the south-east corner of Neverend Farm in Ulcombe. The site is accessed via a gated service route from the south side of Pye Corner. The appeal site is outside of urban settlement boundaries and falls within the Low Weald Landscape of Local Value (LLV) and within the Ulcombe Mixed Farmlands Landscape Character Area (LCA), as designated in the Maidstone Landscape Character Assessment, amended July 2013 (MLCA). The MLCA notes that the landscape is in 'Very Good' condition and that it has 'Very High' sensitivity.
8. The site is largely enclosed by a tall and well-established hedgerow limiting views from public vantage points. From my site observations, it was apparent that the surrounding area has a strong rural character, largely comprising agricultural land with some woodland and sporadic agricultural/commercial buildings located in and amongst it. The appellant has submitted a Visual Impact Assessment (VIA)¹ which concludes views from beyond the site are limited, with only partial views of the proposal from the existing access route. Consequently, whilst the appeal site contributes to the rural character of the surrounding area it makes only a limited contribution to the landscape character of the Low Weald LLC and Ulcombe Mixed Farmlands LCA.
9. The proposal would introduce 13 pitches into a relatively tight area, set around a horseshoe shaped grasscrete access road with associated parking bays. As such the proposal would result in the intensification of the site given the regimented positioning of units as opposed to any more informal occupation of the land. However, the aforementioned enclosed nature of the existing development restricts views to and from the site to glimpses only.
10. Even if limited longer views of the site could be afforded, the site would appear as part of the existing small cluster of various buildings and other ad hoc land parcels, off Pye Corner, rather than as part of the open countryside beyond the appeal site. In terms of public exposure, the site is rendered relatively indistinct and makes little contribution in itself to the open rural character of its wider surroundings. Thus, the adverse impacts on the character and appearance of the area would be limited.
11. Furthermore, there are several other mobile homes and caravans located in the immediate vicinity, and the planning history associated with Neverend Farm and the local area provides evidence of planning permissions² having been granted for various mobile homes and caravans sites. This includes a lawful development certificate issued at the site for the use of the agricultural field,

¹ Prepared by Graham Simpkin Planning (GSP) Ref: 3835.PN

² Maidstone Borough Council Planning Refs: 12/1229, 20/502238/FULL and 19/503101/FULL

subject to this appeal, as a No 5 pitch caravan and motorhome site for use by an external organisation³. As such, the provision of caravans within the vicinity is not an uncommon feature.

12. The introduction of development into the site would not be unduly harmful, having regard to the enclosed nature of the existing site. The development would not result in harm to the character and appearance of the area, given it would provide a relatively small development between the existing structures.
13. Overall, the proposal would not conflict with the relevant provisions of Policies SP17, DM1, DM30 and DM38 of the Maidstone Borough Local Plan (MBLP), adopted October 2017 insofar as any impacts from the proposal on the appearance and character of the landscape can be appropriately mitigated, and the proposal responds positively to the local character of the area, with particular regard to scale, height and site coverage. The proposal would also accord with MBLP Policy SP21 insofar as the development is appropriate for its countryside location. The proposal would also accord with paragraph 88 of the Framework which amongst other things seeks sustainable rural tourism and leisure developments which respect the character of the countryside.

Highway Safety

14. The proposed access would utilise an existing access separated from the roadside by well-established hedgerows via Pye Corner, which is subject to national speed limits (60mph). However, the tight nature of the road and the curvature of the bend at Pye Corner would reduce speeds at which vehicles could safely travel. The appellant has submitted an updated Transport Statement (TS)⁴ which includes actual vehicle speeds recorded along Pye Corner. The speed survey confirms the existing 85th percentile two-way vehicle speeds as 27.1mph.
15. In areas where the speed is 30mph Kent County Council as Highways Authority (HA) requires visibility splays of 60m along the Y-axis in both directions⁵. From the information before me, the proposed visibility sight lines at the appeal site are shown as 2.4m by 74m to the east of the site access, and 2.4m by 143m to the west, both in excess of the HA requirements. Furthermore, the updated TS has also assessed the 3-year Personal Injury Accident records for the local highway network which includes Personal Injury Collision analysis using the full crash and casualty data available from the HA. This highlighted only one accident at the Eastwood Road junction some distance from the appeal site.
16. The updated TS also assessed the proposed trip generation for the proposal using the industry standard Trip Rate Information Computer System (TRICS). In respect to other comparable sites, the TRICS database used existing trip information from out-of-town holiday accommodation sites with limited on-site facilities. The results from the TRICS comparison data, indicated during weekday peak hours the proposed development will result in a negligible increase in overall traffic. This is at both the site access and over the local highway network. The figure also falls well below the Guidance on Transport Assessment thresholds.

³ 20/505988/LAWPRO

⁴ Revised Transport Statement dated May 2023 prepared by PT Planners

⁵ Kent County Council "The Kent Design Guide"

17. I have also been supplied with evidence on swept path analysis to ensure safe access and egress and the ability to turn on site. Given the information provided and in the absence of any evidence to the contrary, it has been demonstrated that the proposal would not be detrimental to highway safety.
18. For the above reasons, I conclude that the proposed site access would be acceptable in highway safety terms, with particular regard to the adequacy of the proposed visibility splays and adequate turning facilities within the site. The proposal would therefore not conflict with the relevant provisions of MBLP Policy DM1 which amongst other things, require proposals to safely accommodate the vehicular movement generated on the local highway network and through the site access. Furthermore, the proposal would accord with paragraph 115 of the Framework, which amongst other things, seeks to ensure that developments are not permitted if there would be an unacceptable impact on highway safety.

Other Matters

19. I have taken into account all of the other matters and concerns raised in the submissions by interested parties, which include but are not limited to, monitoring holiday lets, sustainability of the location, parking, capacity of physical infrastructure, impact on biodiversity and the living conditions of neighbours.
20. The Council consider the concerns relating to monitoring holiday lets can be controlled and enforced through the use of conditions. I agree and have therefore included appropriate conditions.
21. Regarding the sustainable nature of the location, Policy DM38 of the MBLP encourages holiday facilities located outside of settlement areas, providing there would be no adverse impact on the character of the rural area and the site would be well screened by existing and proposed vegetation. The Council concluded that in terms of sustainability, this appeal site would be acceptable. Given my findings in respect to the main issues above I have no reason to disagree with the Council on this matter.
22. In regard to parking, the scheme provides a suitable level of off-street parking and there are no parking restrictions in the vicinity. As such there is little substantive evidence to suggest that the effects of the development would make the existing parking levels materially worse or that the development would have a materially harmful effect on parking in the area.
23. With regard to the capacity of physical infrastructure I have no substantive evidence to demonstrate that the occupiers of the proposed development would cause unacceptable additional pressure on existing infrastructure relating to local services and facilities.
24. No biodiversity enhancement recommendations have been submitted. However, the Council consider that a suitable condition requesting details of biodiversity enhancement and net gain on the site, to include integrated methods into the fabric of the lodges (such as bird bricks, bat tiles and bee bricks) should be recommended. Consequently, I conclude that subject to conditions the proposal could protect biodiversity and wildlife habitats.
25. In respect to issues raised on the living conditions of surrounding properties, based on the evidence before me as well as my observations on site, I am

satisfied that given the siting of the proposal, taken together with its limited height and the distance to boundaries, as well as the distance to the nearest properties, there would be no material harm to the adjoining neighbours.

Conditions

26. The Council has provided conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without altering their fundamental aims.
27. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plans to provide certainty. In the interests of highway safety, I have imposed a requirement for a Construction Management Plan which is necessary to submit prior to the approved development commencing.
28. In the interests of the ecology of the site, a condition is necessary to mitigate any harm to protected habitats. A condition is also required for the details of external lighting in the interests of the living conditions of nearby residents. Both of these conditions are necessary to submit prior to the approved development commencing.
29. I have imposed a condition to ensure the development meets the requirements of Secure By Design to safeguard that the site is developed in a way in which it will be safe for its intended end use and to ensure that the proposal will not adversely affect the surrounding area.
30. To ensure that the proposal remains for holiday lets a condition is necessary to restrict the occupation of the units in order to support the tourism industry and prevent their occupation as permanent dwellings. Furthermore, a condition restricting the days of occupation is included for clarity.
31. In the interests of the character and appearance of the site and surrounding countryside, a condition is necessary to secure the retention of trees and hedgerows.

Conclusion

32. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Robert Naylor

INSPECTOR

SCHEDULE OF 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: 3635/01; 3635/02; 3635/03; 3635/04 Rev E; 3635/05 Rev E and 3635/06 Rev A.
- 3) No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:
 - The anticipated number, frequency and types of vehicles used during construction.
 - The construction hours.
 - The method of access and egress and routeing of vehicles during construction, including any temporary access.
 - The parking of vehicles by site operatives and visitors.
 - The loading and unloading of plant, materials and waste.
 - The storage of plant and materials used in construction of the development.
- 4) No development shall take place, including any ground works or works of demolition, until a wildlife management plan has been submitted to and approved in writing by the Local Planning Authority, to include as appropriate detailed proposals for the protection of bats, birds, reptiles, great crested newts and badgers; measures for the mitigation of any harm to them likely to be caused by the development; and timings for the implementation of the proposed works and measures. The works and other measures forming part of that plan shall be carried out in accordance with it.
- 5) No development shall take place, including any ground works or works of demolition, until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21. The Reduction of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained, and operated in accordance with the approved scheme.
- 6) No unit shall be occupied until the implementation of a Secured By Design scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be adhered to in full throughout the life of the development.
- 7) The development hereby permitted shall be occupied for holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-

to-date register of the names, main home addresses and the duration of stay of all future occupants, and this information shall be made available at all reasonable times upon request to the Local Planning Authority.

- 8) The holiday accommodation hereby permitted shall only be occupied continuously by any persons for a period not in excess of 28 days and not for more than 112 days in any calendar year.
- 9) No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the root protection area (RPA) of any tree or hedgerow, except with the consent of the Local Planning Authority:-
 - Levels shall not be raised or lowered in relation to the existing ground level within the RPA of the tree or hedgerow.
 - No roots shall be cut, trenches dug or soil removed within the RPA of the tree or hedgerow.
 - No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of the tree or hedgerow.
 - No fires shall be lit within the RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
 - No vehicles shall be driven over the area within the RPA of the tree or hedgerow.
 - No materials or equipment shall be stored within the RPA of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.

END OF SCHEDULE