



Appeal Decision

Hearing held on 16 January 2024

Site visit made on 16 January 2024

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/M2270/W/23/3332797

The Hatchin Tan, Grandshore Lane, Frittenden, Cranbrook TN17 2BZ

- 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 Ms Nancy Lee against the decision of Tunbridge Wells Borough Council.
 - The application Ref 23/02102/FULL, dated 3 August 2023, was refused by notice dated 21 September 2023.
 - The development proposed is the stationing of one mobile home, one touring caravan and a utility room for a gypsy family.
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Decision

1. The appeal is allowed and planning permission is granted for the stationing of one mobile home, one touring caravan and a utility room for a gypsy family at The Hatchin Tan, Grandshore Lane, Frittenden, Cranbrook TN17 2BZ in accordance with the terms of the application, Ref 23/02102/FULL, dated 3 August 2023, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The Council's emerging local plan is currently undergoing a second consultation on changes to the evidence base. Given the stage it is at, the Council attaches limited to moderate weight to its policies. The appellant agreed. Given the stage it is at, I attach the policies limited weight.
3. There are various unauthorised developments on the site. However, I have only had regard the proposal before me. There are also various appeal decisions relating to this site. Those in 2005 and 2010 were issued before the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS). Therefore, I have given them very little weight. However, the Decision¹ in 2023 is a relevant material consideration.

Main Issue

4. This is the effect of the proposal on the character and appearance of the area.

Reasons

5. Located on Grandshore Lane, the site is a rectangular shaped parcel of land. It is mostly grassed with areas of hardstanding and some touring caravans stationed. Whilst there is development on site, it was agreed at the Hearing

¹ APP/M2270/W/21/3286899

that the baseline position would be an undeveloped site. Grandshore Lane has a rural, agricultural landscape of farmland, bordered by woodland or open fields. There are sporadic developments and the overriding character is rural. This is consistent with its designation as Local Character Area 7 (Sissinghurst Wooded Farmland) of the Tunbridge Wells Borough Landscape Character Assessment (LCA).

6. The proposal is for the change of use of the land to a Gypsy and Traveller site for one pitch. This will comprise the stationing of one static caravan, one touring caravan and one day room, along with hardstanding for the access road and around the pitch. Indicative landscaping is also proposed, however a comprehensive landscaping scheme could also be the subject of a planning condition.
7. The overall size of the pitch, including domestic paraphernalia and activity associated with the use, would impact upon the rural character of the area and introduce an element of urbanising development. However, the area is not a valued landscape in Framework terms nor subject to any national designations. Moreover, an impact or change does not necessarily result in harm, and there is an expectation in the PPTS and under Policy H4 of the Tunbridge Wells Borough Local Plan (March 2006) (TWLP) that gypsy and traveller sites may be in the countryside.
8. The scale of the proposal would be minimal given it is for one pitch. This means the effect of domestic paraphernalia, hardstanding, lighting and activity associated with the use would also be minimal. Additionally, when established, the landscaping would considerably ameliorate the effect, enhancing the locally distinctive sense of place by providing native planting subject to the Council's control. Furthermore, the site would not be readily visible from Grandshore Lane nor from any other public vantage points, including surrounding public footpaths.
9. There would be a change and the area would be sensitive to this. Yet, the small scale of the proposal, coupled with landscaping would have a minimal impact upon the landscape character of the area. This would also preserve and enhancing the locally distinctive sense of place when considering the wider area in which the appeal site is set. The woodlands, sunken lanes and overall perception of a sparsely settled landscape as detailed in the LCA would remain.
10. Whilst this is a different conclusion to the 2023 appeal decision, the scale of the proposal is much reduced. That decision considered 3 pitches, a much larger proposal, in terms of activity, hardstanding, development and area than that before me. Therefore, even despite the harm the Inspector found, the circumstances are materially different.
11. Furthermore, whilst the appellant acknowledged there would be localised harm and conflict with policy, I do not agree that the harm caused by the proposal would lead to policy conflict. The policies enable development and the change associated with this proposal would be minimal.
12. Consequently, the proposal would have an acceptable impact on the character and appearance of the area. This would be consistent with Policies EN1, EN25 and H4 of the TWLP, Core Policies 4, 5 and 14 of the Tunbridge Wells Borough Core Strategy 2010. These policies seek to ensure the proposal would have no more than a minimal impact on the landscape and rural character of the

locality, local distinctive sense of place and character is conserved and enhanced and that development is of a sustainable design, that respects the context of the site. There would also be compliance with the PPTS, the LCA and the Rural Lanes SPD.

Other Matters

13. The Council can demonstrate a Gypsy and Traveller pitch supply of 5.8 years from April 2023. The agreed Statement of Common Ground sets out that there are no concerns regarding the need for Gypsy and Traveller accommodation in the borough and there is no unmet general need. That said, Policy H5 of the TWLP does not set an upper limit. Furthermore, the site occupants have a personal need to be sited in this area, they are Romany Gypsies (agreed with the Council) and meet the definition of Gypsy and Travellers in the PPTS.
14. The Council raised concerns that the proposal would not be suitable for the site occupants given the reduction in numbers from previous schemes. However, the appellant confirmed at the Hearing that the site would meet the requirements of the family.
15. Personal need and circumstances for the proposal were discussed along with Human Rights and the Public Sector Equality Duty. However, given my findings above, it has not been necessary to consider these any further.

Conditions

16. The plans are listed for certainty [condition 2]. A comprehensive landscaping scheme is necessary to ameliorate the effect of the development. This will entail landscaping and management of the whole site, subject to a 5 year plan. This is a reasonable time period for a scheme of this size [conditions 3 and 4].
17. A condition restricting the type and number of caravans should be imposed to limit the visual impact [condition 5]. Likewise, conditions relating to external lighting [condition 6], the parking of larger commercial vehicles [condition 7] and the use of the remaining land [condition 8] would be necessary to safeguard the rural nature of the area.
18. A restriction on boundary treatments is also necessary in this scheme, given the size of the site and harm that various domestic boundary treatments could have upon this rural area [condition 9]. A policy restricting the site to the occupation of Gypsies and Travellers is necessary given this is what the proposal seeks permission for [condition 10].
19. A condition for biodiversity net gain was suggested by the Council. Whilst it was not disputed, no policy requirement has been demonstrated for this and therefore, it would not be necessary to make the development acceptable.

Conclusion

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

Katie McDonald

INSPECTOR

Appearances

For the Local Planning Authority:	
Thomas Vint	Senior Planning Officer
David Scully	Landscape and Biodiversity Officer
Richard Hazelgrove	Development Management Team Leader
For the appellant:	
Alex Bateman	Agent
Eddie Powell	Appellant representative
Nancy Lee	Appellant
Interested parties:	
Mrs Dunmill	Local resident in support

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - P_203 - Proposed Plans Day Room
 - P_204 - Proposed Plans Mobile Home
 - P_201 A - Proposed Site Plan
 - P202_A - Proposed Plans
 - Preliminary Ecological Appraisal (November 2021)
- 3) Within three months of the date of the decision notice, a hard and soft landscape scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall:
 - i. show all existing trees, hedges and blocks of landscaping on and immediately adjacent to the site, including highway trees,
 - ii. indicate which species are to be retained and protection measures,
 - iii. provide details of surfacing and boundary treatments,
 - iv. include details of replacement planting,
 - v. show the location of any habitat piles, and
 - vi. include a planting specification, a programme of implementation and a 5 year management plan.

The approved scheme shall be implemented in accordance with the programme of implementation.

- 4) Any seeding or turfing which fails to establish or any trees or plants which, within five years from the approved landscaping being completed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.
- 5) No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved

in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other external lighting shall be installed or operated.

- 6) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time. The touring caravan on site which is not a static caravan or mobile home shall not be separately occupied.
- 7) No commercial vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 8) No vehicles or caravans shall be sited, parked or stored on land beyond the approved hardstanding as shown on plan P_201 A.
- 9) No gates, fencing or other boundary structures are to be erected other than those shown on the approved plans or agreed landscaping scheme.
- 10) 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 2023 (or its equivalent in replacement national policy).

*****END OF CONDITIONS*****