



Appeal Decision

Site visit made on 1 February 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/U2235/W/23/3318941

Babylon Farm, Babylon Lane, Hawkenbury, Kent TN12 0EG

- 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 Donal McLaughlin against the decision of Maidstone Borough Council.
 - The application Ref 22/504619/FULL, dated 4 November 2022, was refused by notice dated 7 February 2023.
 - The development proposed is described as "I wish to be allowed to maintain a static caravan in my parents field, this originally was a temporary solution, to covid related housing issues for myself and partner, but now my aging mother and father require me to maintain the land and take over care of the horses. I believe it will require change of use of the land. The land is yard space and has not been used to grow/harvest any for of crop for 20 years."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw during my visit that the caravan is on the appeal site, apparently in accordance with the plans before me. I have therefore considered this appeal on the basis that the development has already taken place, as did the Council.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. However, insofar as the contents are relevant to this appeal, the Framework has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to comment on the revised Framework.

Main Issues

4. The main issues are:
 - the effect of the caravan on the character and appearance of the surrounding countryside;
 - whether the countryside location is suitable for new residential development;
 - whether the caravan represents an acceptable form of development having regard to its flood zone location and the provisions of the Framework; and
 - whether any conflict with the development plan would be outweighed by other material considerations.
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Reasons

Character and appearance

5. The appeal site is at the corner of a large field, near a barn. It is otherwise at some distance from Babylon Lane and the rest of Babylon Farm, which are the other side of a tree-lined ditch and some paddocks. There is a public footpath running down the side of the field, close to the site of the caravan. The surrounding countryside is predominantly agricultural and generally flat and open with occasional hedgerows and trees.
6. The caravan is prominent in views from the entrance to the field in which it is located and from several points along the public footpath. It is closer to open countryside than the nearby barn and there is domestic paraphernalia on and around it, such as plant pots, trellis, garden ornaments and external lighting. These items, along with the curtains at its windows, give the caravan a distinctly domestic appearance, at odds with the rural and agricultural environs. Whether or not the site was previously a yard rather than part of the field, this conspicuous contrast is detrimental to the surrounding landscape's character and appearance.
7. I accept the appellant has sought to improve the appearance of the site since he has occupied the caravan, and that refuse bins can be stored near the main dwelling. However, these measures have done little to reduce the caravan's prominence or diminish its domestic appearance. Therefore, they are not sufficient to overcome the detrimental effect described above.
8. For the above reasons, I conclude the caravan has a harmful effect on the character and appearance of the surrounding countryside. This is contrary to Policies SP17, DM1, DM30 and DM33 of the Maidstone Local Plan 2017 (MLP), which together require development in the countryside to respect and not harm the landscape character and appearance of the area. It is also contrary to the Framework, where it requires decisions to ensure development is sympathetic to local character, including the surrounding landscape setting.

Countryside location

9. Policy SP17 of the MLP defines as countryside all parts of the borough outside of defined settlement boundaries. It states development proposals in the countryside will not be permitted unless they accord with other policies in the MLP and will not result in harm to the character and appearance of the area. Policy SS1 of the MLP protects the rural character of the borough outside of settlements. The supporting text of Policy SS1 explains the need for access to key services and facilities with a range of transport choices.
10. The appeal site is outside a defined settlement boundary so is in a countryside location. I have concluded under the first main issue that the proposal has a harmful effect on the character and appearance of the surrounding countryside. Therefore, the requirements of Policies SP17 and SS1 of the MLP are not satisfied. There is also no pertinent evidence before me to demonstrate that a choice of transport modes other than the private motor vehicle is available to provide access to local services and facilities.
11. Paragraph 84 of the Framework states decisions should avoid the development of isolated homes in the countryside unless one or more of five circumstances apply. The location of the caravan is some distance from the principal farm

buildings and there is little to suggest its occupants would live as part of the household in the main farmhouse. I note the reference to other dwellings at Babylon Farm but there is little evidence before me to substantiate this. Other dwellings on Babylon Lane are some distance away. I therefore find the caravan is an isolated home in the countryside. I have considered the appellant's reasons for living on the farm, to assist with its management for a temporary period. However, I am not persuaded on the limited evidence before me that any of the circumstances under Paragraph 84 of the Framework apply.

12. For the above reasons, I conclude the countryside location is not suitable for new residential development. The development is contrary to Policies SS1 and SP17 of the MLP and paragraph 84 of the Framework.

Flood risk

13. The parties are agreed the appeal site is within Flood Zone 2. The development involves the creation of a dwelling, which is a form of non-major development that requires the sequential test when proposed in Flood Zone 2. Annex 3 of the Framework classifies caravans intended for permanent residential use as highly vulnerable to flood risk, for which an exception test is required in Flood Zone 2. Paragraphs 170 and 171 of the Framework set out two elements to the exception test, both of which should be satisfied for development to be permitted.
14. The appellant's statement and Flood Risk Assessment (FRA) do not include sufficient information to satisfy me that there is not another location for the development with a lower risk of flooding; that the development provides wider sustainability benefits that outweigh the flood risk; or that the development is safe without increasing flood risk elsewhere. Therefore, neither the sequential nor the exception tests are passed. I also cannot be certain on the limited evidence before me that the development is appropriately flood resistant and resilient, that any residual risk can be safely managed or that there are safe access and egress routes, as required by paragraph 173 of the Framework.
15. These concerns apply to those currently occupying the caravan on a continuous basis, whether or not there will be future occupants. There is no pertinent evidence to substantiate the suggestion that mobile caravans are at a lower risk of flooding because they are situated above ground. Moreover, given the proximity of the ditch and the description of recent flooding at the farm, I am not persuaded by the contention that any flooding is unlikely to be serious.
16. For the above reasons, I conclude the caravan does not represent an acceptable form of development having regard to its flood zone location and the provisions of the Framework. This is contrary to Policy DM1 of the MLP, which resists inappropriate new development within areas at risk of flooding unless potential impacts are mitigated through measures integral to the design of the building. It is also contrary to the Framework for the reasons given.

Other material considerations

17. The appellant has introduced measures to attract wildlife and is willing to do more, which could be secured by condition were the appeal to be allowed. The scale of ecological enhancements is nevertheless modest, so I give this consideration limited weight.

18. I understand the appellant needs to help manage the family farm during a period of illness. By living on hand to provide this assistance, the appellant is helping to sustain a rural business. Therefore, although planning permission runs with the land, I give these personal circumstances limited weight.
19. The appellant states he would be prepared to accept a temporary permission for the caravan, with all signs of residential use removed from the site by 2025. The caravan has no foundations, so it and the associated domestic paraphernalia could be removed from the site with little lasting detriment to the character and appearance of the surrounding countryside. Therefore, if I were to allow this appeal by granting a temporary permission, the harm I have found under the first main issue would be temporary. Residential use of the site would cease on expiry of a temporary permission, so the harm identified under the second main issue would also be temporary.
20. A temporary consent would reduce the level of risk associated with locating a highly vulnerable use in Flood Zone 2, because there would be a lower probability of a flood event occurring during a limited time period. Nevertheless, the evidence before me remains insufficient to satisfy the requirements of the Framework or for me to be certain that the residual flood risk has been adequately mitigated while the caravan is on the site. Therefore, my conclusion on the third main issue does not change. For this reason, although the other harms would be temporary, I give only limited weight to the appellant's willingness to accept a temporary consent.
21. I have found a conflict with Policies SS1, SP17, DM1, DM30 and DM33 of the MLP, which means there is a conflict with the development plan, read as a whole. If I were to allow the appeal and grant temporary planning consent for the caravan, the harms from its effect on character and appearance and from unsuitable residential use of the site would attract only moderate weight because they would be temporary. However, the harm from the residual flood risk affecting the occupants of the caravan would have considerable weight. Consequently, individually or cumulatively, the weight of the other material considerations set out above is not sufficient to outweigh the conflict with the development plan I have found.

Other Matters

22. The caravan is in the setting of Grade II listed Babylon Farmhouse, which dates from the 17th century, with 19th century alterations. Its significance is derived from features including its timber frame, chimney stack, bays, fenestration, materials, interior exposed beams and inglenook fireplace. The setting of the Farmhouse includes Babylon Lane, the farmyard and surrounding fields. This setting contributes to the significance of the listed building as the physical and historical context for its farmhouse use.
23. The distance and tree-lined ditch between the appeal site and the Farmhouse mean there is little inter-visibility between the caravan and the listed building. The caravan also cannot be seen from Babylon Lane or from much of the farmyard. Although the caravan is visible from the public footpath, there are few points along it from which the caravan and listed Farmhouse can be seen together. Therefore, I find the setting of the listed building would be preserved and there would be no harm to the significance of the Farmhouse as a designated heritage asset.

Conclusion

24. I have found the development conflicts with the development plan, read as a whole. Other material considerations, including the Framework, have not been shown to indicate that a decision should be taken otherwise than in accordance with it. Consequently, the appeal should be dismissed.

C Carpenter

INSPECTOR