



Appeal Decision

Site visit made on 30 January 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2024

Appeal Ref: APP/U2235/W/23/3321664

Oakhurst, Stilebridge Lane, Marden, Kent TN12 9BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr P Body against the decision of Maidstone Borough Council.
 - The application Ref 22/504241/FULL, dated 26 August 2022, was approved on 28 February 2023 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of land for the stationing of 18 holiday caravans with associated works including laying of hard standing and bin store.
 - The condition in dispute is No 24 which states that: Prior to the first occupation of the caravans hereby approved, details of how decentralised and renewable or low carbon sources of energy (e.g., ground mounted photovoltaic panels) will be incorporated into the development shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and operational prior to first occupation of the caravans hereby approved and maintained as such thereafter.
 - The reason given for the condition is: To ensure an energy efficient form of development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. As such, it was not necessary to ask the main parties for views regarding this matter and no parties have been prejudiced as a result.
3. Since the council issued its decision on the planning application, a new Maidstone Local Plan (MLP) has been adopted and I have taken it into account in my decision. The council have clarified the relevant policies are LPRSP14(C) and LPRQD4. The appellant has had the opportunity to comment on the new policies and I have taken their response into account in making my decision. The Council state that during the 6-week Judicial Review period following adoption, they consider that the policies in the Maidstone Borough Local Plan 2017 continue to have full weight; I have no reason to disagree with this assessment.
4. It has been brought to my attention that the Marden Neighbourhood Plan 2020 (MNP) also forms part of the development plan for the area. The main parties' views have been sought on the MNP policies insofar as they relate to the appeal. Submissions from the Council were received, and I have taken them into account.

Background and Main Issue

5. In 2019, planning permission was granted for the change of use of the land for the stationing of 18 holiday caravans with associated works including the laying of hardstanding and a bin store. Permission was then granted in February 2023 for the carrying out of that scheme without compliance with some of the conditions attached to that decision. This appeal relates to condition 24 of the latter permission.
6. Condition 24 as stated on the decision notice does not refer to any specific policies, though the reason is stated as being to ensure an energy efficient form of development. The Council have, however, referred to the Framework and development plan policies in their appeal submissions.
7. The appellant proposes that condition 24 reads 'prior to the first occupation of the caravan (including a replacement unit), confirmation that the caravan(s) complies with BS 3632:2015 is required to be submitted to and approved in writing by the local planning authority. All caravans within the site shall be maintained in compliance with this British Standard (or any subsequent updated or equivalent British Standard associated with the Specification for Residential Park Homes and Residential Lodges)'.
8. The main issue is whether condition 24 is necessary and reasonable in the interests of energy efficiency.

Reasons

9. Paragraph 157 of the Framework sets out that the planning system should support the transition to a low carbon future in a changing climate and that renewable and low carbon energy should be supported.
10. Policy DM1 of the Maidstone Borough Local Plan 2017 (Local Plan) relates to principles of good design. It states that proposals which would create high quality design and meet specific criteria will be permitted. Part vii of these criteria is to orientate development, where possible, in such a way as to maximise the opportunity for sustainable elements to be incorporated and to reduce the reliance upon less sustainable energy sources. Policy BE3 of the MNP supports development that provides or incorporates low or zero carbon technologies.
11. There is clear support set out in the Framework and Policies DM1 and BE3 of the development plan for the use of renewable and low carbon energy. The MLP builds on this approach. MLP Policy LPRSP14(C) relates to climate change, and states, amongst other things, that the council will support the provision of renewable energy infrastructure within new development. MLP Policy LPRQD4 sets out that proposals will be permitted that include renewable energy generation methods where possible.
12. No substantive evidence has been provided to demonstrate that it would not be possible to achieve the provision of renewable energy generation methods within the appeal scheme. Having regard to the status of the MLP and the degree of conflict with Policy LPRQD4, this matter attracts significant weight.
13. Although the scheme proposes the siting of caravans on the land, I do not consider that the Framework or the development plan policies identified should

be disapplied on that basis. In any event, paragraph 157 of the Framework and MLP Policy LPRQD4 do not make reference to development specifically.

14. I acknowledge that the appellant has not disputed the necessity of condition 23 which requires the installation of electric vehicle charging points and that this would help achieve an energy efficient development. Whilst this may be the case, neither this, nor the proposed wording of the revised condition, would address the issue of the provision of renewable energy generation as supported by the Framework and policies described above.
15. I have no reason to doubt that compliance with the standards set out in BS3632:2015 would result in the provision of energy efficient caravans, potentially reducing the overall energy demand from the development than may otherwise have been the case. However, there is no substantive evidence before me to quantify how the use of the type of caravans proposed would outweigh the overall benefit of providing a source of renewable or low carbon energy on the appeal site. In any event, the use of caravans complying with BS3632:2015 is within the gift of the appellant and could be done regardless of any condition on the planning permission.
16. The planning policy context is clear that there is an expectation to include the provision of low-carbon or renewable energy sources in proposals, which condition 24 achieves. The condition is necessary and reasonable in the context of the support for energy efficiency and the use of renewable energy set out in the Framework, Local Plan Policy DM1 and MNP Policy BE3, along with the requirements of MLP Policy LPRQD4 to which I attach significant weight. The condition as attached is reasonable, sufficiently related to the development and enforceable. In contrast, the proposed condition would undermine the energy efficiency and low carbon objectives of the development plan and the Framework.

Other Matters

17. My attention has been drawn to the absence of conditions requiring the provision of renewable or low carbon energy sources in other developments in the local authority area with specific reference to both holiday caravan developments and Gypsy and Traveller sites. I have not been provided with any specific details in this respect and cannot therefore comment on the circumstances of any other case. In any event, I have determined this appeal on its own merits.

Conclusion

18. Without Condition 24, the proposal would be contrary to the development plan and the other material considerations including the Framework do not suggest that the decision should be taken otherwise than in accordance with the development plan. Condition 24 is reasonable, sufficiently related to the development and enforceable. It is necessary to make the development acceptable in planning terms. The appeal is therefore dismissed.

L Francis

INSPECTOR