



Appeal Decision

Site visit made on 25 February 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/U2235/W/24/3345757

Land at Smarden Road, Headcorn, Maidstone, Kent, TN27 9HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Lisa Smith against the decision of Maidstone Borough Council.
 - The application Ref is 24/500218/FUL.
 - The development proposed is 4 new static units each with associated day room for Gypsy & Traveller use.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use of land for the siting of 4 no. static units each with associated days rooms for Gypsy and Traveller use at Land at Smarden Road, Maidstone, TN27 9HP in accordance with the terms of the application, Ref 24/500218/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, the Council's decision notice correctly describes the development as a change of use and therefore I have used this description within this decision.

Main Issues

3. Following the submission of the appeal the Council reviewed their case and confirmed that their third reason for refusal in relation to highway safety was added in error and should be disregarded.
4. Therefore, the main issues in the consideration of this appeal are:
 - the effect of the development on the character and appearance of the area;
 - whether the development would provide acceptable living conditions for future occupiers, with particular reference to private amenity space; and
 - whether the proposed development needs to, or has, demonstrated that a net gain in biodiversity would be achieved.

Reasons

Character and appearance

5. Policy LPRHOU8 sets out in part (c) that planning permission will be granted for pitches where the development would not result in significant harm to the landscape and rural character of the area, having particular regard to local landscape character and the landscape impact arising as a result of the development in combination with existing lawful caravans.
6. The site is within the Low Weald Landscape of Local Value which the LP describes as covering a significant proportion of the countryside in the rural southern half of the borough. The Low Weald is recognised as having distinctive landscape features: the field patterns, many of medieval character, hedgerows, stands of trees, ponds and streams and buildings of character should be conserved and enhanced where appropriate.
7. Policy LPRSP9 sets out that the distinctive landscape character of the Low Weald will be conserved and enhanced as a landscape of local value.
8. Maidstone's Landscape Character Assessment (LCA) was published in 2012 and amended in 2013 and the site is located within the Headcorn Pasturelands which is in good condition and of high sensitivity to change. The site is also within the Beult Valley landscape character area, in the Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015, and is characterised by open and undulating, low lying fields with guidelines to improve and conserve.
9. The area has appreciable qualities in terms of its rural character with the broader site contributing to the coherence of the rural landscape, with the existing fields influencing the wider pastoral character. These are important contributing factors to the character of the area.
10. Whilst caravans are not an alien feature in rural locations in the form of tourism or rural workers accommodation and are evident on the neighbouring site, the proposal would introduce a greater number of pitches into the area. It would also lead to the creation of a formal surfaced access with associated parking and turning and changes which would result in the intensification of the site as part of its residential occupation. This would also be visually from the introduction of internal and external lighting which would be noticeable within this landscape and intrude into the countryside.
11. The site, despite the presence of landscaping around its boundaries, is visible from Smarden Road and from these localised viewpoints the development would result in a change from the rural setting of the site, albeit viewed in the context of the neighbouring site which also contains a number of buildings and structures and the development on the opposite side of Smarden Road, comprising linear residential development and the more developed site of the East Dean Kennels and Cattery.
12. I therefore conclude the development would lead to modest harm to the character and appearance of the appeal site and its surroundings, but would not be at the significant level of harm set out in policy LPRHOU8 which requires development to not result in significant harm to the rural character and appearance of the area.

13. The proposal would result in a limited conflict with policies LPRSP15 and LPRQD4 which together, as part of principles of good design, require development to respond positively to and where possible enhance the character of the area and local distinctiveness.
14. The proposal would result in moderate conflict with policy LPRSP9 which requires landscapes of Local Value to be conserved and enhanced.

Appropriate on site facilities

15. Policy LPRHOU8 provides criteria for the determination of planning applications. It does not provide any specific guidance on the level of amenity space required per pitch. Paragraph 26 of the PPTS requires sites to be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness, and to promote opportunities for healthy lifestyles such as ensuring adequate landscaping and play areas for children.
16. The proposed block plan includes the provision of a dayroom for each pitch and sufficient spacing between the pitches to provide areas of amenity space and the for the pitches to be screened with fencing to provide for additional privacy is this is required by the proposed occupiers. Therefore, I am satisfied that whilst these areas may be smaller than the size suggested within the supporting text to Policy LPRQD7, these standards refer to requirements for houses and the proposal before me is for the siting of mobile homes, and therefore I do not consider that this policy is directly relevant to the consideration of this appeal.
17. Furthermore, the appeal site is located in a rural area and as such the occupiers of the site would have access to a wider range of open spaces and as part of an active rural lifestyle have the opportunity to enjoy the wider benefits of the countryside.
18. In conclusion, the site would provide sufficient space to meet the needs of future occupiers, in terms of amenity space in accordance with policy LPRHOU8 of the LP and paragraph 26 of the PPTS. The proposal would provide adequate residential amenities for future occupiers in accordance with policy LPRSP15 of the LP.
19. The Council have referenced policy LPRSP10C within their reason for refusal, however this policy sets out the site allocations for Gypsy and Traveller pitches and does not provide any requirements for outdoor amenity provision or the layout of pitches and as such is not directly relevant to this main issue.

Biodiversity Net Gain

20. The requirement for mandatory biodiversity net gain was introduced under Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) (as inserted by Schedule 14 of the Environment Act 2021). It is applicable to all major development submitted after the 4 February 2024 and all minor development submitted after the 2 April 2024. The application was submitted in January 2024 and therefore the proposed development is exempt from biodiversity net gain provisions. The Planning Practice Guidance (PPG) confirms this¹ by explicitly stating that permissions granted for applications made before this date are not subject to biodiversity net gain.

¹ Paragraph: 003 Reference ID: 74-003-20240214

21. However Local Plan Policy LPRSP14A requires a 20% net gain on all new residential development, and policy LPRSP15 requires that proposals protect and enhance any on-site biodiversity and geodiversity. Paragraph 187 of the Framework requires that decisions should contribute to and enhance the local environment in a number of ways, including provision of net gain for biodiversity. The PPG defines biodiversity net gain as works which deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity gain can be achieved on-site, off-site or through a combination of on-site or off-site measures.
22. The Council have confirmed that the required biodiversity enhancements could be secured by an appropriately worded condition. No ecological survey was submitted with the application and therefore there is no evidence to establish a baseline of biodiversity on the site. However, given the extent of the site and the existing landscaped boundaries I am satisfied that opportunities would exist for biodiversity net gains to be achieved through careful management of the site and as part of enhancements to the existing landscaping and other measures such as provision of wildlife/hedgehog gateways in boundaries, bird boxes, bat boxes, bug hotels, ponds, water features and appropriate lighting and that these could be secured by an appropriately worded condition if I were to allow the appeal. As such the proposal would comply with policies LPRSP15 of the LP.

Other Matters

23. I have had regard to all of the other matters raised by local interested parties, including the nature of the existing road network, the impact of increased traffic movements associated with the proposed development and the potential for increased flood risk arising from increased areas of hardstanding. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees in particular with regard of highway matters. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.
24. While it is evident that the development lacks local support, my assessment of other considerations have led me to conclude that the development is acceptable, for reasons set out below.

Other Considerations

25. The Maidstone Revised Gypsy and Traveller Accommodation Assessment July 2024, confirms that there is a need for 342 pitches for households that meet the 2023 PPTS definition and 122 pitches for undetermined households. Of these that would be a need to deliver 207 pitches by 2027. The Council have therefore confirmed that they have a 5 year supply of only 1.2 years.
26. The Council intends to identify new pitches through a separate Gypsy and Traveller and Travelling Showpeople DPD. The Council have already undertaken two calls for sites, one in March 2022 and one in March 2023. However the revised Local Development Scheme indicates that the DPD will be submitted for examination in Spring 2027, with an anticipated adoption date of January 2028.

27. This means that unmet need can only be met through windfall sites coming forward or through the extant allocations which have been carried over from the previous Local Plan 2017 and will deliver 22 pitches, but with no possibility of securing a further supply of plan led sites until the adoption of the DPD in 2028.
28. Under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010, I need to consider how the modest increase in the supply of sites arising from the development could positively contribute to the advancement of equality and good relations, with s149 placing an onus on public authorities to avoid discrimination and being proactive in promoting equality. The equality implications arising from the development are, as such, an important factor in favour of the proposal. As such I consider that need for Gypsy and Traveller sites carries considerable weight.
29. Therefore, having regard to the scale of the under supply, I attach considerable weight to this consideration, whilst acknowledging that the Council has a criteria based policy under which the unmet need can be considered.

Planning Balance

30. The Council is currently unable to meet the identified accommodation needs of gypsies and travellers and I have given considerable weight to this undersupply. Addressing this to a modest degree by permitting four pitches is therefore a contribution to the undersupply and attracts weight accordingly.
31. I have given moderate weight to the harm I have identified to the character and appearance of the area. Of the material considerations, the general need for gypsy and traveller sites and the uncertainty about any future provision given the current status of the DPD, in this instance, outweigh the harm I have identified to the character and appearance of the area.

Conditions

32. The Council has suggested 14 conditions which I have considered against the advice in the Framework and Planning Practice Guidance. 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 plan to provide certainty.
33. To limit the visual impact the number of caravans and the size of vehicles to be kept at the site are to be restricted. For similar reasons details of landscaping, bin storage and any external lighting are also required to be submitted, agreed and implemented. In order to ensure appropriate foul and surface water drainage is provided on the site details are also required.
34. I have also found it necessary to impose a condition requiring the submission of an details of the ecological and biodiversity enhancements.
35. I have not imposed a condition requiring the removal of the caravans if the use of the site ceases, as the use of the land for the siting of caravans has been given on a permanent basis.

36. I have also not imposed a number of the councils suggested conditions which duplicate the matters set out within the council's suggested condition 03, the level of detail set out is a matter for the Council to consider and communicate with the appellant as part of any application to discharge their conditions and does not need to be subject to separate conditions.

Conclusion

37. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.
38. For the reasons given above the appeal should be allowed.

G Pannell

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:
 - Site Location Plan
 - P10/3 Proposed Floor Plan and Elevations
 - P1036/2 Proposed Block Plan
 - P1038/4 Day Room Floor Plan and Elevations
- 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.
- 4) There shall be no more than 4 pitches on the site and on each pitch hereby approved no more than 1 caravan, shall be stationed at any time.
- 5) The site shall not be occupied until details of a scheme for the means of foul and surface water drainage of the site; soft landscaping to include details of species, plant sizes, proposed numbers and densities; boundary treatment, refuse arrangements, external lighting and details of the permeability of the proposed hardstanding, shall have been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The development shall be carried out in accordance with the approved details.

- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The site shall not be occupied until details of post development habitat creation and enhancements have been submitted and approved in writing by the local planning authority. These details shall include, but are not limited to, the installation of a minimum of one bat tube on each mobile home or day room, the installation of bird and bat boxes and an implementation programme. These measures shall thereafter be retained.
- 8) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 9) No commercial activities shall take place on the land, including the storage of materials.

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