



Appeal Decision

Site visit made on 9 May 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref: APP/E2205/W/24/3351868

Circus Farm, Biddenden Road, Smarden, Kent TN27 8QG

- 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 Mr Niven Lawson (John Lawson Circus) against the decision of Ashford Borough Council.
 - The application Ref is PA/2022/2109.
 - The development proposed is change of use of barn from storage and office building to travelling showperson accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of barn from storage and office building to travelling showperson accommodation at Circus Farm, Biddenden Road, Smarden, Kent TN27 8QG in accordance with the terms of the application, Ref PA/2022/2109, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant has submitted a Preliminary Ecological Appraisal (PEA) with the appeal. This document provides additional supporting information about but does not change the development proposed. There has been an opportunity to comment on it, so no party would be prejudiced by my taking it into account.
3. The existing building has an attached conservatory. This is not shown on the Site Location Plan, which includes the existing floor plan and elevations. However, a conservatory is shown on drawing Ref 1008-0007-03 Proposed Floor Plan & Elevations (Final), which was before the Council when it made its decision. I have therefore determined the appeal on the basis that the proposal includes a conservatory, which has already been built. I saw during my site visit that no other element of the proposed development had taken place.
4. The National Planning Policy Framework (the Framework) and Planning Policy for Traveller Sites (PPTS) were updated in December 2024. I invited the parties to consider whether the revised Framework and PPTS had relevance to this appeal and have taken account of their responses in my decision.

Background and Main Issues

5. The appeal site is within an established travelling showpeople's yard, which is used for storage of circus equipment and the siting of caravans for residential use. The building subject of the appeal is brick-built and used for storage and as an office ancillary to the use of the travelling showpeople's yard. Consequently, the proposal

to change the use of the building, if allowed, would result in the creation of a dwellinghouse rather than a plot intended for the siting of mobile accommodation.

6. The main issues in this appeal are therefore:

- whether the site represents a suitable location for the development, having regard to the spatial strategy for the area;
- the effect of the proposal on the supply of accommodation for travelling showpeople;
- the effect of the proposal on the character and appearance of the surrounding countryside; and
- the effect of the proposal on protected species and biodiversity.

Reasons

Suitable location

7. Policy HOU5 of the Ashford Local Plan 2019 (ALP) supports proposals for residential development adjoining or close to the existing built-up confines of various settlements, subject to a number of criteria. Elsewhere in the countryside, the Policy permits residential development for specific purposes, including accommodation to cater for an essential need for a rural worker to live permanently at or near their place of work in the countryside. This is broadly consistent with Framework paragraph 84.
8. The appeal site is located approximately 1km outside the village of Smarden. There is no dispute it is within the countryside for planning policy purposes. There is also no suggestion the site is sufficiently close to Smarden for the first part of ALP Policy HOU5 to apply. I shall therefore consider it against the second part of the Policy.
9. The John Lawson Circus (JLC) is an established business located in the countryside, which depends on the land at its yard to operate. By providing traditional live entertainment to smaller communities up and down the country, it delivers a service to rural areas. Therefore, although there is no connection to agriculture or forestry, the business nevertheless has some features in common with other forms of land-based rural enterprise.
10. The appellant describes the intended occupiers of the building as a household associated with JLC who wish to live alongside the other circus households on a single site. The reasons given are practical and operational to assist the effective running of the circus. The evidence provided satisfies me that, as members of a group organised for the purposes of holding fairs, circuses or shows, the proposed occupants would fall within the PPTS definition of travelling showpeople, whether or not they have kinship ties.
11. The proposal would support the sustainable growth of JLC as a rural business and the prosperity of the rural economy more generally in accordance with the Framework's economic objectives. Enabling members of JLC to live and work from the same location would also reduce travel to work journeys, which would contribute to the economic, social and environmental sustainability of the yard in accordance with paragraph 13 of the PPTS. Further, the proposal would help make

effective use of previously developed land, which is a consideration supported in both the Framework and the PPTS.

12. A condition could be applied to restrict occupation of the dwelling to travelling showpeople only, so the dwelling would remain connected to the wider use of the yard. Occupation would inevitably be seasonal because the business by its nature involves periods when the group are travelling away from the yard. This is reflected in the Council's description of the yard as travelling showpeople's winter quarters.
13. Taking all this together, even if the proposal is not entirely like those generally found to satisfy the exception for accommodation to meet the essential needs of a rural worker, I find it is sufficiently comparable to be consistent with the objectives that underpin the spatial strategy set out in ALP Policy HOU5.
14. Consequently, subject to a restrictive occupancy condition, I conclude the site does represent an appropriate location for the development, having regard to the spatial strategy for the area.

Supply of accommodation for travelling showpeople

15. As noted above, the yard comprises a mix of commercial and residential uses, with the latter in the form of plots for the siting of caravans. The proposed development would slightly reduce the proportion of the yard that is used for storage of circus equipment in favour of more residential accommodation. Although not in the form of a traditional plot, this accommodation would nevertheless house members of the same group of travelling showpeople, subject to restricted occupancy as set out above. There would be no reduction in plots for caravans or change to the access arrangements for the yard. Current uses of the building would be moved to another part of the yard and no other land is proposed to be used. I therefore find the proposal would not subdivide the yard or reduce accommodation for travelling showpeople on an existing authorised site.
16. Conversely, the proposal would help address JLC's need for additional showperson accommodation in a way that allows the group to live and work together. This need was set out in JLC's 2018 and 2020 representations on the Council's emerging Gypsy and Traveller Development Plan Document (GTDPD). Whilst I note the Council's Gypsy and Traveller Accommodation Assessment identified no need for additional travelling showperson plots until 2030, that report is over six years old and there is no pertinent evidence it fully addresses JLC's current requirements.
17. Moreover, I understand the GTDPD is now to be incorporated into an emerging new Local Plan, which is at an early stage of preparation. There is thus no immediate prospect of a suitable alternative site being found to meet the full needs of JLC as a group of travelling showpeople. In these circumstances, I give the suggested absence of need little weight.
18. For the above reasons, I conclude the proposal would have a positive effect on the supply of accommodation for travelling showpeople. I also find no conflict with ALP Policy HOU17, which requires authorised travelling showpeople's sites to be retained for travelling showpeople.

Character and appearance

19. The area surrounding the appeal site largely comprises open countryside with small fields separated by trees and hedgerows. The site has little visual relationship with

the village of Smarden given its distance from it. The building subject of the appeal has one storey and is set back from Biddenden Road within the yard. Existing perimeter fencing means little more than the roof and gable ends of the structure can be seen from the road; and the design, materials and muted colour of these elements give it the appearance of a barn appropriate to its rural environment.

20. There would be no change to the roof or external cladding of the building, so its overall barn-like appearance within the rural landscape would remain. Fenestration would replace the existing wide roller shutter door, but this and the proposed porch canopy would be mostly screened from public view by existing boundary treatments. Residential paraphernalia such as garden furniture or washing would also be largely concealed by the perimeter fence. The conservatory is a subservient rear addition that can be glimpsed only when passing along the opposite side of Biddenden Road and is unobtrusive from the site entrance. Boundary treatments and perimeter planting could be secured by condition to ensure appropriate mitigation of the visual impact for the life of the development.
21. I recognise previous appeal decisions that considered the effect of the proposed travelling showpeople's yard identified harm to the character and appearance of the surrounding countryside¹. On the evidence before me, in the last of these the harm was found to be outweighed by other material considerations. Be that as it may, the context before me in this appeal is one in which the yard and building to be converted already exist. For the reasons I have given, the development proposed would not materially change their overall appearance in the landscape, so I find there would be no harmful effect on it.
22. For the above reasons, I conclude the development would have an acceptable effect on the character and appearance of the surrounding countryside. Accordingly, I find no conflict with ALP Policies SP1, SP6 or ENV3a, which together seek development that responds positively to the prevailing character of the area including local landscape. I also find no conflict with the Framework, where it requires decisions to ensure development is sympathetic to local character including the surrounding landscape setting.

Protected species and biodiversity

23. The PEA, which includes bat emergence surveys, finds no evidence of bat roosts or nesting birds on or in the building to be converted. The main habitat of value on the yard is identified as the hedgerow along the western boundary, which would be retained and protected during construction. The report recommends the provision of bat and bird boxes on nearby trees or structures and controls on artificial lighting to mitigate impacts on species. It finds no likely adverse effects on nature conservation sites in the wider area but recommends good practice guidelines be followed during construction, which could be secured by condition.
24. For the above reasons, I conclude the proposal would have an acceptable effect on protected species and biodiversity. Accordingly, I find no conflict with ALP Policy ENV1, which supports proposals that conserve or enhance biodiversity.

¹ Application Refs 05/01002/AS, 08/00600/AS and 09/00036/AS

Other Matters

25. The Grade II listed building known as Bardledon Manor or Farmhouse is situated some distance along and on the other side of Biddenden Road. It is an impressive eighteenth century red-brick structure with surviving hipped tiled roof, moulded wooden eaves cornice, hipped dormers and sash windows that contribute to its architectural significance. The building's grounds and outbuildings provide the immediate setting for its historic significance as a farmhouse of some importance to the area, with further historic context provided by the surrounding rural landscape.
26. The appeal site falls within this wider setting, which has evolved with the introduction of the travelling showpeople's yard. As set out above, the proposal would result in little material change to the current character and appearance of this landscape. Consequently, the setting of the listed building would be preserved and there would be no harm to its significance as a designated heritage asset.
27. The particular circumstances relating to the appeal proposal would be unlikely to be repeated elsewhere. Therefore, concerns about precedent are not a significant consideration.

Conditions

28. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
29. Conditions relating to wildlife protection and enhancement and external lighting are necessary to mitigate effects on biodiversity and improve habitat value. A condition relating to vehicle parking and turning spaces is necessary in the interests of highway safety and to ensure electric vehicles can be charged.
30. A condition securing approval of boundary treatments and perimeter planting is necessary for the reasons given under the third main issue. A condition removing permitted development rights for alteration or enlargement of the dwellinghouse or its roof, or for the erection of buildings incidental to its enjoyment, is also necessary to protect the character and appearance of the surrounding area.
31. A condition restricting occupation of the dwelling to travelling showpeople is necessary for the reasons given under the first and second main issues.
32. Conditions relating to contamination and construction management are not necessary given the development involves change of use of an existing building and is of a modest scale. Sewage disposal is covered by another regulatory regime so a condition in this regard is not necessary.

Conclusion

33. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 1008-0001-05 Site Location Plan; 1008-0008-01 Existing & Proposed Site Layout Plan; 1008-0007-03 Proposed Floor Plan & Elevations (Final).
- 3) No development above ground level shall take place until a wildlife/habitat protection and enhancement plan has been submitted to and approved in writing by the local planning authority. The wildlife/habitat protection and enhancement plan shall include:
 - i) a plan showing wildlife/habitat protection zones;
 - ii) details of development and construction methods affecting wildlife/habitat protection zones and measures to be taken to minimise the impact of any works;
 - iii) details of phasing of construction; and
 - iv) details of biodiversity enhancements such as planting and bird and bat boxes.

Construction shall be undertaken in accordance with the approved details. The biodiversity enhancements shall be provided in accordance with the approved details prior to first occupation of the dwelling hereby permitted.

- 4) Prior to the installation of external lighting, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out and maintained in accordance with the approved details.
- 5) The building shall not be occupied until vehicle parking and turning spaces have been provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The vehicle parking spaces shall include provision for charging of electric vehicles. The vehicle parking and turning spaces shall thereafter be kept available at all times for the parking and turning of vehicles.
- 6) The building shall not be occupied until details of boundary treatments and perimeter planting have been submitted to and approved by the local planning authority. The boundary treatments and perimeter planting shall be completed in accordance with the approved details before the building is first occupied and shall thereafter be retained.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A to E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 8) The occupation of the dwelling hereby permitted shall be limited to travelling showpeople, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

End of schedule