
Appeal Decision

Site visit made on 10 April 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/V2255/W/24/3349779

Peternel, Elm Way, Eastchurch, Kent ME12 4JP

- 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 Dennis Kavanagh against the decision of Swale Borough Council.
 - The application Ref is 23/505643/FULL.
 - The development proposed is Erection of 1no. replacement pre fabricated lodge dwelling with detached garage. Change of use for the siting of 3no. static caravan holiday lets with erection of 1no. outbuilding and associated parking (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. The description of development within the planning application is lengthy and includes extraneous information. For this reason, I have used the Council's description of development as this more accurately describes the proposal.

Main Issues

4. The main issues are:
 - whether or not the proposal would be in a suitable location having regard to policies for the location of development;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on protected species and biodiversity.

Reasons

Suitable location

5. The appeal site is a rectangular shaped plot accessed via an unmade access track. Immediately to the south of the site is a large holiday park complex which is lined by static caravans. The site's other boundaries are surrounded by residential properties laid out within irregularly sized plots.

6. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Local Plan) sets out the strategic approach to the location of development. It identifies that, through the use of previously developed land within defined built up area boundaries, development proposals will be permitted in accordance with the following settlement strategy: the urban areas of Sittingbourne, Faversham and Sheerness are the principal focus for development together with development at rural local service centres and other villages with built-up area boundaries shown on the Council's Proposals Map.
7. Local Plan Policy DM4 states that planning permission will not be granted for any new static holiday caravans and chalets, or extensions, outside of the holiday park areas on the Isle of Sheppey as shown on the Proposals Map. Whilst the three static caravans within the appeal site adjoin the holiday park, the Council indicate, and it is not disputed by the appellant that, they are outside of its boundaries as shown on the Proposals Map.
8. The supporting text to Policy DM4, at paragraph 7.1.25, explains that given the scale of existing caravan and chalet provision on the Isle of Sheppey and the contribution to the poor condition and appearance of landscapes, the Local Plan does not allocate any new sites for such development. It explains the expansion of existing sites outside the defined holiday areas will also not be permitted due to the likely landscape and visual impacts. I acknowledge that the three caravans are let on a private basis and therefore are not commercially connected to the adjoining holiday park. However, their built form is physically and visually linked to the holiday park, by virtue of their proximity, and in that sense, the proposal would create a visual extension of caravans outside the holiday park.
9. Policy DM3 of the Local Plan supports the sustainable growth and expansion of rural businesses, and indicates that the use of previously developed land should be prioritised. The appellant states that the appeal site is previously developed land. Notwithstanding this, part 2.c of the policy requires that, where relating to holiday parks, proposals are also in accordance with Policy DM4. I have previously found that the proposal would not accord with Policy DM4.
10. Consequently, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the Local Plan for the proposal, having regard to local and national planning policy. The proposal fails to accord with Policies ST3, CP1, DM3 and DM4 of the Local Plan insofar as they seek to limit development in the open countryside and identify that planning permission will not be granted for any new static holiday caravans outside of the Holiday Park areas on the Isle of Sheppey.
11. Neither would the proposal comply with paragraph 88 c) of the Framework which outlines that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.

Character and appearance

12. The area around Elm Way and First Avenue is characterised by dwellings that follow a loose and informal layout. Dwellings are detached and occupy reasonably spacious plots, which are of varying size, commensurate with their location in the countryside. Whilst dwellings are visible from public views on Elm Way and First Avenue, the street scene is green and rural in character, marked by mature vegetation on the front boundaries of some properties.

13. There is a marked visual transition to the south where the adjoining holiday park is defined by the ordered layout and more utilitarian design of static caravans and chalets. The photographic evidence within the Council's Statement of Case indicates that the area within the southern end of the appeal site was previously verdant. Due to their utilitarian design and close-knit layout, the introduction of the three static caravans is at odds to the rural character of the area surrounding Elm Way. The caravans and associated walkway have a harmful urbanising effect on a part of the appeal site which was previously undeveloped. This is exacerbated by the elevated position of the three caravans which are accessed via a raised walkway.
14. The majority of neighbouring residential properties have outbuildings within their grounds. However, storage containers are not common. The storage container positioned adjacent to Elm Way is therefore a prominent and incongruous addition to the area. Whilst the garage would be large it would be set back from Elm Way, and would not be a prominent addition. The remaining container and outbuilding associated with the holiday lets would be located to the rear of the site, and would not be harmful additions.
15. Whilst larger than the building which was previously on the appeal site, the dwelling's modest proportions combined with the large undeveloped area which would be retained within the centre of the appeal site, would ensure that a sense of spaciousness would be maintained. The design of the dwelling would not be out of keeping with the design of surrounding properties. The proposed external materials and fenestration would be consistent with, and therefore reinforce, the character and appearance of this particular street scene and the wider area.
16. However, I have found that the three caravans and large storage container adjacent to Elm Way would have a harmful effect on the character and appearance of the area. Therefore, the proposal would conflict with Policies DM11 and DM14 of the Local Plan insofar as they require proposals to reflect the positive characteristics and features of the site and locality and be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.

Protected species and ecology

17. The main parties disagree on the extent of site clearance which has taken place. However, aerial photography provided by the Council indicates that scrub and grassland was previously on site, and grassed areas were re-growing at the time of my site visit.
18. Kent County Council's Biodiversity Officer indicates that the habitats are potentially suitable for species including breeding birds, reptiles and amphibians including great crested newts (GCN). There are records for protected species slow worm within the site vicinity and the site lies within an amber risk zone for GCN.
19. Paragraph 99 of Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

20. An assessment of the site's suitability for the presence of protected species is not included within the submitted evidence. In the absence of such an assessment it is not possible to confidently ascertain that there are no protected species present which must be taken account in the planning decision.
21. The appellant indicates that the Council did not request any ecological information. Regardless, Policy DM28 of the Local Plan states that development proposals will be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development, especially where it is known or likely that development sites are used by species, and/or contain habitats, that are subject to UK or European laws.
22. Consequently, the proposal conflicts with Policy DM28 of the Local Plan which requires proposals to conserve, enhance and extend biodiversity.

Other Matters

23. The appeal site lies less than 6km from the Medway Estuary and Marshes Special Protection Area (SPA). The sites are easily disturbed by recreational activity from people and their pets and there is a reasonable likelihood that they would be accessed for recreational purposes by future occupiers of the development. Additional recreational visitors to the protected area would be likely to have significant effects when considered in combination with other proposals. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
24. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation. However, I have no such obligation before me. In any event, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

Conclusion

25. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR