



Appeal Decisions

Hearing held on 15 July 2025

Site visit made on 15 July 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 18th July 2025

Appeal A Ref: APP/U2235/C/25/3362026

Lynch Bank Farm , Pilgrims Way, Detling, Kent, ME14 3EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Noel Devlin against an enforcement notice issued by Maidstone Borough Council.
 - The notice was issued on 5 February 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for a residential use including the stationing of a caravans and associated paraphernalia including a stable building within the red outlined plan.
 - The requirements of the notice are: a) Permanently cease the use of the Land for residential purposes within the red outline of the attached plan. b) Permanently remove from the Land all the caravans within the red outline of the attached plan. At the time of the issue of this Notice there were six caravans stationed (1x twin unit & 5x single statics) within the red outlined area. c) Permanently remove from the Land the stable building within the red outline of the attached plan. d) Permanently remove from the Land all associated paraphernalia including any subterranean features such as oil tanks, sewage treatment tanks and utilities from the Land as shown within the red outlined plan attached. e) Remove all resultant materials, rubbish, paraphernalia, and debris from the Land complying with steps (a) to (d) above.
 - The time for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/U2235/W/25/3363879

Lynch Bank Farm, Detling Hill, Detling, Kent, ME14 3EX

- 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 Noel Devlin against the decision of Maidstone Borough Council.
 - The application Ref is 24/503177/FULL.
 - The development proposed is siting of 4no. additional mobile homes for Gypsy/Traveller occupation, retention of existing mobile home and day room (mobile home), and erection of storage building (Part Retrospective).
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Decisions

Appeal A – 3362026

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B - 3363879

2. The appeal is allowed and planning permission is granted for the siting of 4no. additional mobile homes for Gypsy/Traveller occupation, retention of existing

mobile home and day room (mobile home), and retention of storage building (former stables) at Lynch Bank Farm, Detling, ME14 3EX in accordance with the terms of the application, Ref 24/503177/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

3. Mr Devlin received planning permission for a single pitch gypsy site in 2023. However, at some point he brought onto the site a larger mobile home (to accommodate his family) which is positioned mostly off the approved site. Also further mobile homes were brought onto that site and onto land to the east. The Council issued a Breach of Conditions notice to deal with the proliferation of mobile homes on that site. This notice is currently in abeyance awaiting the outcome of this appeal.
4. Mr Devlin confirmed there were 6 extra mobile homes on the land, and for a while several were rented out to non-gypsies. However, these people have now been removed and his s78 appeal is for four extra mobile homes to accommodate members of his extended family, plus retention of his original mobile home which is now a day room and his new mobile home. The additional mobile homes will be removed. The storage building referred to in the s78 appeal is a stable building containing loose boxes at the very rear of the site that is already there and is to be retained.

Main Issues s78 Appeal

5. The impact of the extended gypsy site on the national landscape and on biodiversity and the situation regarding the provision of gypsy sites in the district.

Reasons

National Landscapes

6. The Kent Downs National Landscape (KDNL) was designated back in 1968 primarily to protect this part of the north downs and in particular the escarpment. The combination of elevation and steep slopes make it a highly visible feature and particularly sensitive to change. The site lies on the edge of the scarp and is described by the KDNL team as “truly sensitive”. I agree that the introduction of 4 mobile homes surrounded by a 2m high close boarded fence to this area would introduce an urbanising effect that would not be in character with the surroundings and would not conserve or enhance the NL.
7. However, the appellant’s Landscape Valuation Impact Assessment points out the actual impact on visual receptors is moderate to low. The site is sandwiched between the A249 dual carriageway, and a steep slope. To the west is the authorised site and a separate house, then a cluster of cottages that form part of the village of Detling cut off by the dual carriageway. The steep slope beyond the site is thickly wooded, and the boundary with the road is also wooded. There is a footbridge over the dual carriageway that offers elevated views over the site, but in the summer it is effectively invisible, although the LVIA contains photographs taken in the winter which shows the tops of the mobile homes and the close boarded fence that surrounds the site are clearly visible.
8. I walked the rights of way in the area, that lead up the hill and behind the site and back down towards the dual carriageway, but apart from when walking alongside

the dual carriageway itself, the site is not readily visible. The impact of the site is thus season dependant, and this would be difficult to change with native planting. The LVIA proposes a landscaping plan that removes the close boarded fence and its replacement with post and rail and a hedgerow of native plants. Although this might make the mobile homes more visible in the winter, especially in the short term, those views are largely restricted to the footbridge and the path by the dual carriageway. On balance this would represent an improvement. Overall, there is some harm to the NL but this is restricted to winter views from a limited number of locations.

9. Policy LPRHOU8 says that gypsy sites should not cause significant harm to landscape and rural character and I do not think there is 'significant harm'. However, the policies of the Kent Downs AONB Management Plan are rather more rigorous, and despite the lack of visibility the addition of 4 mobile homes cannot be said to preserve and enhance the character and qualities of the Kent Downs AONB (now NL) and so is contrary to SD2 and SD3.

Biodiversity

10. The site lies close to corner of the Woldingham to Detling Escarpment SSSI and similarly close to the corner of the North Downs Woodlands SAC, although the land owned by the appellant stretches further and touches the corners of these designations. The appellants have not provided a bio-diversity statement and none was asked for at application stage for the s78 proposal and Natural England have not raised any concerns. The Council say it was a mistake not to ask for a bio-diversity report and the NE advice is very much a desk top study which notes it is not a statement there would be no harm. The LVIA does comment on the SSSI and SAC and suggests there would be a negligible impact. It also proposes woodland planting on that part of the land close to the SAC, which is currently a steep bank, overgrown with brambles, and management of the grassy sward between the site and the neighbouring dwelling both of which have a slight border with the SSSI. These proposals should provide a bio-diversity gain, as would replacing the laurel hedge and conifers planted around the boundaries with a proper native hedgerow.
11. Given the nature of the topography, the appeal site is now on flat land next to the dual carriageway and the SAC and SSSI are on steep hillsides above the site, so there is a clear distinction between the two. I do not, therefore, think the lack of a bio-diversity plan is seriously problematic and the appellants proposed landscaping would provide some bio-diversity gain, as well as providing a border between the site and the SSSI and SAC. However, policy LPRSP14(A) requires a 20% net bio-diversity gain. While I am fairly confident there will be no harm to the surrounding area it is much less clear whether there will be sufficient gain to meet this requirement and so in this way the development falls short of LPRSP14(A).

Gypsy Site Delivery

12. The Council's latest Pitch Delivery Report shows a delivery of 150 pitches over 5 years but a requirement of 198, so they calculate they have a 3.78 year supply. This is a marked improvement over the last figure which was only just over 1 year. However, their supply figures rely heavily (90%) on windfalls. This is based on the rate of windfalls allowed over the last 10 years. It doesn't seem much of a plan to

me if it relies so heavily on windfalls, and this appeal site is just such a windfall site, but nevertheless, the Council does not have a 5 year supply.

Dark Skies

13. The Council were also concerned about the impact on dark skies. Policy SD7 of the Kent Downs management plan requires development to conserve and enhance tranquillity and where possible, dark night skies. Given the close proximity to the busy dual carriageway I do not think there will be any impact on tranquillity. Streetlighting finishes west of the footbridge so there would be some impact on dark skies. The appellant was happy to accept a lighting condition, but with the best will in the world there is bound to be some impact from four homes, especially in the winter.

Conclusions

14. I find the arguments are fairly evenly balanced. The development is contrary to policies SD2, SD3, SD7 and LPRSP14(A). But the harm caused is minor and the Council do not have a 5 year supply of pitches, and are unlikely to achieve that for some time. Nevertheless, on balance, the site is not suitable for a site restricted simply to gypsies.
15. However, Mr Devlin stated the 5 mobile homes, would this time, be only for members of his family. He would occupy the first mobile home with his wife and 5 children (aged between 4-13). His sister, Louise Devlin would occupy the second mobile home with 4 children (aged 7-18). His brother James and his wife would occupy the third mobile home, they have no resident children. His wife's sister, Katherine Millar and her partner and 2 children (aged 5-8) would occupy the fourth mobile home. In understand these are all in residence at the moment. The final mobile home would be occupied by the appellant's other sister, Pauline Devlin who needs support to continue living independently.
16. The human rights of all these people are engaged, particularly the right to a home, and I have also taken into account the best interests of the children, who would benefit from a stable home. I do not have any specific evidence regarding these families, but I have no reason to doubt Mr Devlin. Taking this together I consider that the limited amount of harm is overcome and shall grant planning permission for the five mobile homes subject to a personal condition and other conditions discussed below.

Conditions

17. The Council argued the appellant had already failed to implement the conditions on the original planning permission for a single mobile home and that they did not have the resources to be constantly checking who was living in the mobile homes. While I am sympathetic to their resource issues that cannot be a reason to deny a planning permission to the appellant.
18. There are two block plans, the amended s78 plan and the proposed landscape mitigation plan. The latter proposes replacing the close boarded fence with post and rail and hedgerow planting to the rear of the site but it is not clear whether it is also to the front of the site (facing the dual carriageway), which is also clearly needed. The plan also shows the mobile home (No1 on the s78 amended block plan) to be moved to the other side of the entrance (away from the dual

carriageway). This is because this mobile home is the most visible from the footbridge. The landscape plan also shows 7 mobile homes in total rather than 4. Thus these plans will need to be referenced with care.

19. Gypsy and personal conditions are required and a limit on the number of caravans to 10, (5 mobile homes and 5 tourers), excluding the one that has been converted into a day room which I no longer consider to be a mobile home. Limits to lorry weights, improvements to biodiversity and foul and surface water drainage are also required. A lighting plan needs to be agreed. I do not think a landscaping scheme needs to be submitted and agreed, the LVIA plan can be relied on with some modifications, but details of new planting and a 5 year management plan is needed. Similarly the amended block plan can be relied on without further agreement.
20. There was some discussion at the Hearing as to the lawfulness of the hardstanding and fencing. The fencing will be replaced in accordance with the landscaping scheme. Although I do not need to determine the lawfulness of the hardstanding, photographs in the officers' report dated January 2020 show the site to be cleared and the fencing being erected. I am satisfied that as far as conditions are concerned no further action is required concerning the hardstanding. The Council have suggested removing permitted development rights for temporary buildings and structures but as the mobile homes are not dwellinghouses there are no permitted development rights for other structures or more hardstanding.

Conclusion

21. The appellant made it clear he did not want the 7 mobile homes referred to in the ground (a) appeal for the enforcement notice. In order to avoid having two planning permissions on the site I shall refuse planning permission on ground (a) and uphold the notice but grant planning permission for the s78 appeal, suitably amended and subject to conditions. This will override the notice where they coincide, but the notice will remain in force should any further caravans be moved onto the site or the excess caravans not be removed.

Simon Hand

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon McKay (agent
Noel Devlin (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Sue King
Francis Amekoi

DOCUMENTS

1. Plans showing outlines of planning permissions and land holding
2. Comments from Kent Downs National Landscape.
3. List of suggested conditions.

Conditions Schedule

- 1) The development hereby permitted shall be carried out in accordance with drawing no 2024-PPP07v1a-PropBlock (Proposed block plan), dated 12 August 2024, except for the siting of "New 32ft Mobile Home (1)" and the plan from the LVIA "Landscape Mitigation Strategy" dated 04/03/25 (except for the 5 mobile homes labelled 5 New x 32ft Mobile Homes (2-6).
- 2) 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.
- 3) No more than 10 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, of which no more than 5 shall be static caravans shall be stationed on the land at any time.
- 4) The occupation of the site hereby permitted shall be carried on only by Noel Devlin and his partner, Louise Devlin, James Devlin and his partner, Katherine Millar and her partner, Pauline Devlin and their resident dependants.
- 5) When the land ceases to be occupied by those named in condition 4 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 7) Within 6 months of this decision the site shall be laid out in accordance with the plans mentioned in condition 1 and there shall be no deviation from that layout.
- 8) The landscaping and boundaries scheme shown in the LVIA Landscape Mitigation Strategy shall be carried out in full with the addition of a hedgerow of native plants to be planted along the southern boundary in accordance with the timetable set out in condition 9 below. and no laurel bushes or conifer trees shall be retained.
- 9) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 20 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme setting out the numbers, sizes, species and spacing of the plants and trees in the landscaping scheme; a scheme for the means of foul and surface water drainage of the site and a scheme for proposed and existing external lighting within the site; shall have been submitted for the written approval of the local planning authority and the schemes shall include timetables for their implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or schemes or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme or schemes shall have been approved by the Secretary of State.

iv) The approved scheme or schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 10) At the same time as the schemes required by condition 9 above are submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
- 11) Notwithstanding the above conditions no laurel bushes or conifer trees shall be retained on the site.
- 12) Within 6 months of this decision enhancement of bio-diversity shall be implemented which shall include the installation of 1 bat tube and 4 ready made bird and bat boxes on the site.