



Appeal Decision

Site visit made on 8 April 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/U2235/W/24/3354950

Orchard Place, Benover Road, Yalding, ME18 6AU

- 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 G Fuller against the decision of Maidstone Borough Council.
 - The application reference is 24/500393/FULL.
 - The development proposed is change of use of the land for the siting of 3no. static caravans and 3no. touring caravans for Gypsy/Traveller occupation as a single site, with associated hard and soft landscaping and habitat/biodiversity improvements.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the land for the siting of 3no. static caravans and 3no. touring caravans for Gypsy/Traveller occupation as a single site, with associated hard and soft landscaping and habitat/biodiversity improvements at Orchard Place, Yalding, ME18 6AU in accordance with the terms of the application, Ref 24/500393/FULL subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr G Fuller against Maidstone Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council's determination of the application, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 and updated it on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been amended. The Planning Policy for Traveller Sites (PPTS) was also updated on 12 December 2024. Similarly, those parts of the PPTS that are most relevant to this appeal have not materially changed. As a result, I have not sought further submissions on the revised Framework or revised PPTS, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. I have taken the description of development from the Council's Decision Notice as this describes the development more clearly, albeit I have removed references that do not relate to operative development.
5. At the time of my site visit development had commenced on site.

Main Issues

6. The proposal site is identified as lying within Flood Zone 2 and is classified as highly vulnerable residential development. Whilst the risk of flooding is not identified within the Council's reasons for refusal, concerns have been raised by Collier Street Parish Council in such regard. I have, therefore, considered this matter further, in detail. The parties have had the opportunity to provide comments on this matter. The appellant has taken the opportunity so to do, although the Council has not responded. This notwithstanding, I have taken any comments received into account in my decision.
7. Thus, the main issues in this appeal are: -
 - The effect of the proposal on the character and appearance of the site and surrounding area;
 - The effect of the proposal on the significance of Mill House, which is a Grade II listed building (LB);
 - Whether the proposal would provide appropriate living conditions for future occupiers with particular reference to privacy and outdoor amenity space; and: -
 - Whether the site is a suitable location for the proposal, having particular regard to policies concerned with development in areas at risk of flooding.

Reasons

Character and appearance

8. Policy LPRHOU8 of the Maidstone Borough Council Local Plan Review 2021-2038 (adopted 2024) (the LP) sets out that planning permission for unallocated gypsy and traveller sites will be granted subject to five criteria. That relevant to this main issue is that the development would not result in significant harm to the landscape and rural character of the site, having regard to local landscape character, cumulative effect and existing landscape features.
9. The Maidstone Landscape Character Assessment (2013) identifies the key characteristics of the 'Teise and Upper Medway Valleys' as flat, low-lying land, sparsely settled with limited road access giving a tranquil atmosphere. It also lies within the 'Laddingford Low Weald' character area, identified in the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015), whose key characteristics are expansive arable land with linear settlements with clusters of development at road junctions. From my observations during my visit the appeal site and its surroundings exhibit the key characteristics identified in the above documents.
10. The site forms part of a larger field. This field is bounded by mature hedges, including one on the Benover Road frontage. These provide a degree of screening from the wider landscape and from neighbouring dwellings. Dwellings nearby are of traditional design, using materials such as clay tiles, timber and brick.
11. The area has readily apparent qualities as open grassed land in terms of its rural character and the site makes a positive contribution to the key characteristics of

this rural landscape. These are important contributing factors to the character of the area.

12. The proposal would introduce three static and three touring caravans into the site, together with the creation of a formal surfaced access with associated parking and turning, which would result in additional activity in association with its residential occupation. The static and touring caravans, in particular, would be overtly modern features, out of keeping with the more traditional form of neighbouring buildings. Whilst caravans may not be alien features in a rural location, perhaps because they are locally used for tourism or rural workers accommodation, none were readily apparent in the area at the time of my visit. There would be additional visual intrusion into the bucolic landscape from the introduction of internal and external lighting.
13. Whilst there would be additional activity at the site, including vehicular movements and disturbance from the normal day-to-day activity of residential occupation, the site is in close proximity to other residential uses and so such activity already exists in the vicinity.
14. The site, despite the presence of landscaping on its boundary, is visible from Benover Road. From this viewpoint the development would result in a change from the rural character and appearance of the site, albeit viewed in the context of the cluster of dwellings along the road. Further afield the development would be lost to view through the intervening planting and the lie of the land.
15. In the longer term, the extensive additional planting proposed around the boundaries of the site would mature. This includes an orchard and a copse. This would partially mitigate and soften the visual intrusion of elements of the proposal and could be secured by a suitably worded planning condition. This would not, however, eliminate the visual harm or the harm to the tranquillity of the area as a result of the additional comings and goings from the site or the activities of future occupiers.
16. The Council has suggested that, as day rooms often form a part of gypsy and traveller pitches, there may, in future, be additional harm to the character and appearance of the site and the surrounding area. However, no such structures are shown on the plans and I have, in any case, determined this appeal in regard to the proposal before me.
17. The proposal would conflict with Policies LPRQD4 and LPRSP15 of the LP in as much as, amongst other things, these seek to ensure that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features and respond positively to the local, natural, or historic character of the area. The proposal would thereby be contrary to Policy LPRSP9 in as much as it requires that development proposals in the countryside should accord with other policies in the LP.
18. LPRHOU8 of the LP seeks to prevent development only if there is 'significant harm'. This appears to be a deliberate intention to account for the difficulties in finding locations for this type of development, which will often be located in rural areas where there will be some inherent impact on the undeveloped character of the site, in a similar way that an agricultural barn or rural workers dwelling may. I therefore conclude the development would, taking into account the potential for

mitigation of the visual impact, lead to modest harm to the character and appearance of the appeal site and the surrounding area. This would, however, not be at the significant level of harm set out in Policy LPRHOU8.

19. However, the conflict with Policies LPRSP9, LPRQD4 and LPRSP15 is limited when considered in the context of policy LPRHOU8, which sets a higher threshold of 'significant' harm.
20. The proposal would be in accordance with policy LPRHOU8, and therefore is acceptable in principle within the Countryside. However, as noted above, it would conflict with other policies within the LP protecting the character and appearance of the area.
21. For similar reasons, the proposal would accord with the aims of Policy LPRSP9 of the LP in as much as this seeks to ensure that development proposals in the countryside should not result in significant harm to the rural character and appearance of the area.
22. In this case I consider LPRHOU8 to be the more important policy, relating, as it does, specifically to the provision of traveller sites. Therefore, overall, I find no conflict with the development plan in respect of this main issue.

Heritage

23. The nearby LB, formerly known as Mill Cottages, dates from the late 16th or early 17th century, or maybe earlier, and is a two-storey timber framed house formed by the amalgamation of cottages. The historic context of this building would have been that of modest rural dwellings, constructed of locally available materials using traditional methods, set in the agricultural hinterland. The current context in which it is experienced comprises a rural dwelling of traditional appearance set in a landscaped garden within the wider agricultural landscape amongst sporadic development of traditional appearance. I find that the rurality of the neighbourhood contributes to the special interest of the LB because it provides context to its simple, rustic aesthetic.
24. Given the above, I find the setting of the building, insofar as it relates to this appeal and its special interest, to be primarily associated with the rural landscape as a setting for the traditional appearance of the building. This directly contributes to its special interest for the reasons given.
25. The proposal would introduce three substantial static caravans and three touring caravans of unashamedly modern appearance to the rural neighbourhood. Their appearance would be in direct contrast to that of the LB. However, these would be set back from Benover Road behind a hedge that would, in time, be reinforced by additional planting. Whilst the existing hedge is dense, it is deciduous and limited views into the site remain, particularly during the winter months. During my site visit I observed views into the site encompassing the LB.
26. Thus, through the introduction of the static and touring caravans the traditional rurality of the setting of the LB would be harmfully undermined. Whilst the additional planting proposed to reinforce the hedge fronting Benover Road would go some way to mitigating this harm by reducing the visibility of the incongruous structures and making glimpses through into the site fragmentary, I cannot be

certain that their visual presence could be entirely screened and that some low-level residual harm would not result.

27. Bringing these matters together, I conclude that the proposal would result in a low level of harm to the setting of the LB. In so doing the proposal would not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would be contrary to Policy LPRSP14(B) of the LP in so far as these seek to ensure that the characteristics, distinctiveness, diversity, and quality of heritage assets will be conserved and, where possible, enhanced so as to continue to contribute to the economy, culture and the image of the borough.
28. I thus find that the proposal would lead to a low level of less than substantial harm under the Framework, paragraph 215, and Policy LPRENV1 of the LP, to be weighed against the public benefits of the proposed development in the planning balance below.

Living conditions

29. Policy LPRSP15 requires that development provides adequate residential amenities for future occupiers of the development. Policy LRPQD7 sets out the requirements for private amenity space. These policies are aimed at achieving good design. LRPQD7 specifically mentions standards of outdoor amenity provision, but only in regard to houses and flats. No specific standards are set out for static caravans.
30. Whilst the pitches could be occupied by individual, unconnected households, it is not uncommon within the gypsy and traveller community for extended families to seek to live together. Generally, the lifestyle of this community lends itself to a greater degree of communal living than that of the settled community.
31. Each of the pitches would provide sufficient area around the static caravans, separate from the areas to store their touring caravan or park vehicles, to erect such needful amenities as washing lines, and to sit out.
32. The static caravans would be set close to each other. However, even with this relatively short separation distance this would, given the likely communal lifestyle of future occupiers, not be unduly intrusive and I note that the static caravans are sited at angles to each other to minimise direct overlooking.
33. The private areas within each pitch to the rear of the static caravans are limited in area and would not lend themselves to active play. Nonetheless, there is considerable communal open space within the site where children could play in the open air.
34. I therefore find that the proposal would provide appropriate living conditions for future occupiers with particular reference to privacy and outdoor amenity space. It would, therefore, comply with the expectations of Policy LPRSP15 in this regard.

Flooding

35. The application was accompanied by a Flood Risk Assessment (FRA), dated May 2022. This identifies that the site lies within Flood Zone 2. However, the FRA concluded from more detailed mapping that the area on which the caravans would be located lies on a dry island which would be outside of the area of 1 in 100 year flood risk. The FRA further concluded that, subject to the incorporation of flood

resilience measures, despite the use being highly vulnerable in the event of flooding, the site was suitable.

36. None of the parties have identified any suitable alternative sites to accommodate the development and so, on the basis of the evidence before me, the proposal would pass a sequential test.
37. The provision of additional traveller pitches would contribute to meeting the considerable unmet need for traveller accommodation, providing, together with a well-designed place for travellers to live, access to school and medical care for members of the traveller community. Given that the site would become immediately available to satisfy the identified need, this is a significant public benefit. Further, suitable provision could be secured through a planning condition to ensure the safety of the site for its lifetime without increasing the risk of flooding elsewhere. The site would, thereby, satisfy an exception test.
38. Collier Street Parish Council has drawn my attention to a recent appeal decision in which an Inspector dismissed a proposal for the material change of use of the land for a residential use including the stationing of caravans. However, whilst I do not have full details of the history of that site, the risks associated with the two sites would differ depending on their specifics and so I have given little weight to this matter. I have, in any case, determined this appeal having regard to its own merits.
39. I therefore conclude that the proposal is a suitable location for the development, having particular regard to policies concerned with development in areas at risk of flooding, and would therefore comply with the requirements of the Framework, in as much as this seeks to ensure that development should be made safe for its lifetime without increasing flood risk elsewhere.

Other Considerations

40. There is no dispute between the parties that the Council can only demonstrate a supply of 1.2 years against the 5 years required by the PPTS.
41. Whilst a limited amount of hardcore has been deposited on the land, this is likely to have been associated with the previous permission and so I have given no weight to the retrospective nature of these works as regards deliberate pre-permission development.
42. My attention has been brought to a recent Appeal Decision¹ determined by a Hearing in which the Inspector identified that the Council provided an up dated position setting out the five year requirement 2023-2028 of 205 pitches with a current supply of 53.5 pitches. The Council acknowledged, at that time, that their supply of pitches was 1.2 years. The position in the Borough since then has not demonstrably improved.
43. It is intended that the Council will identify new pitches through a Gypsy and Traveller and Travelling Showpeople DPD, separate to the LP. The Council undertook two calls for sites, one in March 2022 and one in March 2023. It anticipates that the DPD would be adopted later in 2025 at the earliest.

¹ PINS Ref: APP/U2235/W/23/3321285

44. It therefore follows that unmet need can only be met through windfall sites coming forward or through the extant allocations within the LP with no possibility of securing a further supply of plan-led sites until the adoption of the DPD.
45. Under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010, it is necessary for me to consider how the modest increase of three pitches in the supply of sites arising from the development could positively contribute to the advancement of equality and good relations. This is because s149 places a responsibility on public authorities to avoid discrimination and be proactive in promoting equality. The equality implications arising from the development are an important factor in my deliberations.
46. As I have identified above, the provision of additional traveller pitches would contribute to meeting the unmet need for traveller accommodation, providing, together with a well-designed place for travellers to live, access to school and medical care for members of the traveller community. Therefore, having regard to the scale of the under supply of pitches, I attach considerable weight to this consideration as a public benefit, whilst acknowledging that the Council has a criteria-based policy under which the unmet need can be considered.
47. Local residents and the Yalding and Collier Street Parish Councils have raised additional concerns in addition to those matters addressed above. These relate particularly to potential flooding risks and highway safety.
48. The Collier Street Parish Council has suggested that as the static caravans will be securely anchored to their concrete bases to accord with the recommendations of the FRA, they would be permanent structures. However, I find nothing to suggest that the fixing of the static caravans would be any more restrictive to their ability to be moved than, say, connection to power, water supply or drainage services.
49. Yalding Parish Council assert that no evidence has been submitted to demonstrate that future occupiers of the site would be Gypsies or Travellers. The proposal is for general occupation by such persons and their status could be secured through a suitably worded planning condition.
50. Moving on to the matter of highway safety. I have no substantive evidence before me to demonstrate a deficiency that would result in harm to highway safety from the additional number of traffic movements associated with the access, which would be few. I note that neither the Council nor the Local Highway Authority have objected to the proposal on such grounds.

Conditions

51. The Council have not formally suggested any conditions. However, I consider that the following conditions are necessary to make the proposal acceptable, having regard to the advice in the National Planning Policy Framework and Planning Practice Guidance. The Council and the appellant have each had the opportunity to comment and I have taken any comments that I have received into account in my decision.
52. As the development has commenced the standard condition requiring commencement within a set period is unnecessary. I have, however, imposed a condition to ensure that the proposal is carried out in accordance with the approved plans to provide certainty.

53. However, further details are necessary to ensure that the foul water discharge is suitably managed so as to avoid pollution and surface water is managed to protect existing and future residents from flooding. Further details are needed to ensure that the landscaping of the site achieves the intended degree of screening and mitigation to manage the harm that I have identified to the character and appearance of the site and the surrounding area. Similarly, to manage such harm it is necessary to secure details of future external lighting. This will also protect against intrusive light that may affect bats in the vicinity. To this end I have added a condition requiring these details to be submitted and approved by the Council. I have also added a condition to secure the intended benefits to biodiversity of the site and the surrounding area.
54. To ensure that future occupiers of the site are Gypsies or Travellers, thereby achieving the benefits identified in provision specifically for them, I have added a condition to secure this.
55. To limit the visual impact of the number of caravans and the size of vehicles to be kept at the site, thus mitigating the harm that I have identified to the character and appearance of the site and the surrounding area, I have added a controlling condition.
56. In the interests of living conditions, both of future occupiers of the site and neighbours, a condition has been imposed to restrict commercial activities on the site.
57. Further structures within the site could potentially have an adverse effect on the wider character and appearance of the area. I have, therefore restricted the appellant's permitted development rights for the erection of gates, walls and fences. However, the permission is for a change of use of the land for the siting of caravans and this does not confer the permitted development rights set out in Schedule 2, part 1 of the Town and Country Planning (General Permitted Development) Order 2015. This would not confer permitted development rights for the erection of outbuildings and so it is unnecessary to restrict permitted development rights within the site to control them.

Heritage and Planning Balance

58. As the proposal relates to listed buildings I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
59. Heritage assets are, by their nature, a limited, irreplaceable resource and I afford considerable importance and weight to my statutory duty. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. This does not amount to a direction to refuse proposals that harm, and thus fail to preserve, designated heritage assets, but it provides a strong presumption in favour of preservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that any such harm should have a clear and convincing justification.
60. Given that the proposal affects the setting of the LB, but does not result in any changes to its fabric, I find the harm to be less than substantial in this instance but

nevertheless of considerable importance and weight. Where a proposal would lead to less than substantial harm to the significance of designated heritage assets, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.

61. The proposal would be beneficial because it would provide an additional three pitches for gypsies and travellers, whilst the Council has a shortfall of such provision. The site has been well-designed and lies close to a settlement, away from open countryside. It would not, therefore introduce activity into areas currently devoid of residential activity and would provide access to healthcare and schooling in accordance with the criteria set out in paragraph 13 of the PPTS.
62. Whilst there would be likely future benefits through biodiversity enhancements included within the proposals, such as additional planting and the provision of bat and bird boxes, these enhancements have not been quantified. In the absence of quantification of the nett gain in biodiversity I give this limited weight as a public benefit in support of the proposal.
63. Taken overall I find that, in this particular case, on balance, whilst the proposal would result in a low level of harm to the setting of the LB, the public benefits arising from the provision of three permanent pitches for Gypsies and Travellers and a nett gain in biodiversity outweighs this.
64. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
65. There is no dispute between the parties that the Council cannot provide a five-year supply of sites and, therefore the provisions of Paragraph 28 of the PPTS and 11d) of the Framework apply and the policies of the LP are deemed out of date.
66. I have found conflict with the Development Plan, when read as a whole. Notwithstanding the age of the development plan, these policies, which are the most relevant to the determination of this appeal, may nonetheless still carry weight in proportion to their degree of consistency with the aims of the Framework. Policies LPRSP9, LPRQD4 and LPRSP15 of the LP recognise and seek to protect the intrinsic character and beauty of the countryside. They are thus broadly in accord with the aims of Part 15 of the Framework in seeking to conserve and enhance the natural environment. Policies LPRSP14(B) and LPRENV1 of the LP seek to ensure that the characteristics, distinctiveness, diversity, and quality of heritage assets will be conserved and, where possible, enhanced. In so doing, they accord closely with the aims of Part 16 of the Framework. I thus afford these policies full weight in my deliberations.
67. I have found above that the public benefits outweigh the harm in the heritage balance. The Government, within Paragraph 63 of the Frameworks, seek to provide for the established needs of all groups of the community, including travellers.
68. The Government also, in Paragraph 187 of the Framework, sets out its aim to enhance the natural and local environment, recognising the intrinsic character and beauty of the countryside. The proposal would result in limited harm to the character and appearance of the site and the surrounding area when considered in context. Whilst there are no public benefits in addition to those considered above

that would provide further support for the proposal, the only additional weight to be added to the planning balance, above that in the heritage balance carried out above, weighs modestly against the granting of planning permission for the proposal. Nevertheless, even taking this into account, I conclude that the benefits of the proposal outweigh the harms that I have identified and the presumption in favour of sustainable development applies.

Conclusion

69. I therefore conclude that the harm that I have identified to the character and appearance of the area and the setting of the LB is outweighed by other material considerations including the general need for gypsy and traveller sites and the uncertainty about any future provision.
70. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

I A Dyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2016-034v4-Location; 2016-034v4-ExistBlock; 2016-034v4-PropBlock; 2016-034v4-Mobile.
- 2) Within 6 months of the date of this decision and prior to any occupation of the site: -
 - a) A scheme of landscaping for the entire site, including indications of all existing trees and hedgerows on the land, identifying those to be retained and setting out measures for their protection throughout the course of development;
 - b) A scheme for the disposal of foul and surface water, including: -
 - A Flood Resilience Plan which shall be in accordance with measures proposed in the Flood Risk Assessment for Planning (May 2022) submitted with the application; and: -
 - Management and maintenance arrangements;
 - c) A scheme for any external lighting.shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 4) There shall be no more than 3 pitches on the site and on each of the 3 pitches approved no more than 2 caravans shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) No commercial activities shall take place on the land, including the storage of materials, vehicles or any livery use.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; 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.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure other than those shown on the approved plans or those approved under condition 2 above, shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 9) Prior to the first occupation of any caravan hereby approved, a scheme for the enhancement of biodiversity on the site in accordance with the recommendations within the Preliminary Ecological Appraisal dated January 2024 accompanying the application shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of any caravan and all features shall be maintained as such thereafter.

END OF CONDITIONS