



Appeal Decision

Site visit made on 2 December 2025

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2025

Appeal Ref: APP/J2210/W/25/3372400

Highstead Meadow, Boyden Gate Hill, Chislet, Kent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Wayne Middleton against Canterbury City Council.
 - The application Ref is CA/25/00967.
 - The development proposed is the change of use of land for the stationing of 2no. mobile homes, alongside 2no. caravans and car parking.
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Decision

1. The appeal is dismissed and planning permission for the change of use of land for the stationing of 2no. mobile homes, alongside 2no. caravans and car parking is refused.

Preliminary Matters

2. The address of the appeal site given on the application form is “Street Record, Boyden Lane, Chislet, Kent CT3 4ED”. The appeal form indicates the address as “Highfield, Boyden Gate Hill, Chislet, Canterbury CT3 4ED”. The Council cites the address as “Highstead Meadow, Boyden Gate Hill, Chislet, Kent” which I have used in the banner above as this is a more accurate description of the address.
3. The Council refers to the government’s Planning Policy for Traveller Sites (PPTS) from August 2015. However, this was revised in December 2024, and I have used the latest version in my determination of the appeal.

Background and Main Issues

4. The appeal is against the non-determination of the planning application. The Council’s appeal statement indicates that it would have refused planning permission for reasons relating to: the lack of measures to mitigate the impacts on the Thanet Coast and Sandwich Bay Special Protection Area; location; character and appearance; loss of agricultural land; the failure to provide for monitoring costs to deliver biodiversity net gain; and the lack of evidence indicating that the occupants would be Gypsies or Travellers.
5. I consider the status of the intended occupants under other considerations below. Thus, the main issues in this appeal are:
 - the effect of the proposal on the integrity of the Thanet Coast and Sandwich Bay SPA;

- whether the site would be a suitable location for the proposed use, having regard to the provisions of the development plan and the accessibility of services and facilities;
- the effect of the proposal on the character and appearance of the area, including its effect on the setting and significance of the Highstead (Chislet) Conservation Area;
- the effect of the development on the supply of agricultural land; and
- whether the proposed scheme would deliver mandatory biodiversity net gain.

Reasons

Habitats site

6. The appeal scheme proposes to change the use of land for the stationing of mobile homes and caravans on a site within the 7.2km Zone of Influence (Zol) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar site. The Habitats Regulations¹ require that, where a project is likely to have a significant effect on a Habitats Site, either alone or in combination with other projects, the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
7. The SPA includes a wide variety of coastal habitats, including areas of chalk cliff, rocky shore, shingle, sand and mudflats, saltmarsh and sand dunes. It is used by large numbers of migratory birds and supports important populations of breeding little tern and non-breeding European golden plover and ruddy turnstone.
8. The conservation objectives of the SPA are to ensure its integrity by maintaining or restoring the extent, distribution, structure and function of the habitats, the supporting processes on which the habitats rely, and the population and distribution within the site of each of the qualifying features.
9. There is evidence indicating that a threat to the integrity of the Habitats Site is recreational activities causing disturbance to birds, in particular walking with dogs, predominantly in the intertidal area, close to roosts at high tide and with dogs off leads². The appeal site is within the Zol where new residential accommodation is likely to result in additional recreational pressure, which would likely have a significant effect on the protected site.
10. The proposed development is for two mobile homes and associated caravans and, as such, the number of additional recreational visitors would be limited. However, in combination with other developments, it is likely that the proposal would have significant effects on the Habitats Site.
11. The SAMMS sets out a strategic approach to mitigation. It details mitigation measures that would be funded by financial contributions at a per-dwelling tariff, including ongoing monitoring and surveys, wardening, signage and interpretation, and increased education.

¹ Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations)

² Strategic Access Management and Monitoring Strategy for the Canterbury section of the Thanet Coast and Sandwich Bay SPA 2017 (SAMMS)

12. Natural England (NE) has worked with the north and east Kent local planning authorities to support them in preparing the SAMMS and the underpinning evidence base. NE agrees that the mitigation measures to ensure additional impacts from recreational disturbance to the SPA and Ramsar site are ecologically sound. Evidence must be submitted showing that a mitigation contribution payment has either been made to the Council to fund the access and monitoring measures through a unilateral undertaking (UU) or will be made through a section 106 agreement³ where heads of terms have been agreed and the agreement will be signed prior to any permission being granted.
13. An application for planning permission cannot be approved if it is likely to have a significant effect on a Habitats Site and that effect would be unmitigated. A planning obligation would be required to ensure that there is the necessary legal certainty that the mitigation would be secured. The payment would also be linked to the permission, preventing occupation until it is paid. This approach also provides a transparent audit trail.
14. No UU or section 106 agreement has been submitted. As such, there is no certainty that the required contribution towards the provision of mitigation measures in the SAMMS would be made.
15. Therefore, the scheme does not include appropriately secured mitigation measures to address potential recreational disturbance arising from the introduction of mobile homes and caravans for residential use. Thus, I cannot be confident that the proposal, in combination with other plans and projects in the Zol, would not have a significant adverse effect on the integrity of the Habitats Site.
16. Consequently, and as directed by Regulation 63(5) of the Habitats Regulations, permission must not be granted. The proposal would also conflict with Policies SP1, SP6 and LB5 of the Canterbury District Local Plan 2017 (LP) where they seek sustainable development which does not have an adverse effect on the integrity of SPAs or Ramsar sites.

Suitability of the location

17. Policy SP4 of the LP sets out the strategic approach to the location of development in the Council's area. It focusses most development to the urban areas of Canterbury, Herne Bay and Whistable. In the countryside, the policy allows development required for agriculture and forestry purposes.
18. The appeal site lies in the open countryside away from the cluster of development at Highstead which is not defined as a settlement in the LP, and some distance from the nearest defined settlement of Chislet, a hamlet. The proposed use of the site for mobile homes and caravans does not fall within the types of development allowed in the countryside by Policy SP4 of the LP and the scheme would therefore conflict with this policy. In addition, it would not accord with the PPTS where it seeks to strictly limit new Traveller site development in the open countryside that is away from existing settlements.
19. The LP does not contain Gypsy and Traveller site allocations but includes criteria-based Policy HD10 for assessing such proposals. Amongst other things, this indicates that permission will be granted if such uses are well related to and within

³ Under Section 106 of the Town and Country Planning Act 1990

a reasonable distance of local services and facilities, including shops, public transport, schools and medical services. The term 'well related' is not defined so this is a matter of judgment. This is generally consistent with the PPTS where it states that Traveller sites should provide suitable accommodation from which occupiers can access education, health, welfare and employment infrastructure.

20. Chislet does not have shops, a GP practice, or public transport. Although there is a primary school, this is some distance from the site. Access to public transport and most facilities would require a journey along country lanes at least as far as the nearest town of Herne Bay, around 2 miles from the site.
21. The appeal site lies on Boyden Gate Hill, a country road subject to a 30mph speed limit with no street lighting or separate footways, requiring those on foot to walk on the carriageway. In this case, cycling would be an option for some trips by some people. However, walking to services would not be an option due to the nature of the route and distance to facilities. Further, there would be no opportunity to access services by public transport. Thus, future occupiers of the proposed scheme would be heavily reliant on private vehicles to access facilities.
22. Gypsy and Traveller sites tend to be in rural and peripheral locations so access to services will likely be more constrained than conventional housing. However, even taking this into account, the site is not well related to facilities.
23. Consequently, I conclude that the site would not be a suitable location for the proposed use, having regard to the provisions of the development plan and the accessibility of services and facilities. In this regard, it would fail to comply with Policies SP4 and HD10 of the LP. It would also conflict with the locational requirements in the PPTS.

Character and appearance

24. The appeal site comprises an area of grassland in the countryside, sitting slightly above Boyden Gate Hill from which there is an existing recently approved field access with gates⁴. There is a small touring caravan on the adjacent land, but the site lies within a predominantly open, undeveloped area comprising fields and paddocks which extend for long distances in most directions. The site lies outside but close to the Highstead (Chislet) Conservation Area (CA) to the west which includes several listed buildings.
25. For the purposes of this appeal, the significance and special interest of the CA relate in part to the cluster of largely traditional buildings and their relationship to the surrounding countryside. The CA includes some fields around the development cluster, including along Boyden Gate Hill, which help to preserve views of buildings within the CA when approaching it from the surrounding roads. The land further away, including the appeal site, does not closely relate to the group of buildings or the transition between them and the wider countryside. As such, the appeal site does not positively contribute to the setting and significance of the CA.
26. The site lies within the Hillborough Arable Farmlands Landscape Character Area (LCA) identified in the Canterbury Landscape Character Assessment and Biodiversity Appraisal 2020. The key characteristics of the LCA include an undulating, largely open agricultural landscape, a large open field pattern with few

⁴ Planning application ref: CA/23/00641

hedgerows and small blocks of deciduous woodland. As it is an undeveloped, open field, the site positively contributes to the landscape typical of the LCA.

27. As well as the mobile homes and caravans, the proposal includes associated gardens, parking and hardstanding access road. The appeal site is separated from the CA by a neighbouring parcel of land, and the proposed boundary hedge and tree planting would help screen the development in views to and from the CA. Further, the Council's Heritage and Design Manager considers that the nature of the proposal and its separation from the CA would cause no unacceptable impacts on this heritage designation. I afford this expert view significant weight. For these reasons, the proposal would not harm the setting and significance of the CA.
28. Nonetheless, the introduction of an array of caravans, parking areas for vehicles and large areas of hardstanding for the access road would result in significant urbanisation of the southern part of the site, giving it a developed appearance and harming its rural character. Due to their light colour and position at a higher level than the road some distance from built development, the proposed mobile and static caravans would appear stark, isolated and discordant in this particular landscape. Because of their size, the mobile homes would appear especially incongruous in this context.
29. There is reference to an appeal at Fordwich⁵ where the Inspector recognised the adjacent Traveller land use and did not find unacceptable harm, but I have limited details of that case. In any event, the neighbouring land in this instance contains only a small tourer with no hardstanding and thus is not comparable with the scale and amount of development proposed on the appeal site. Despite its diminutive size, the neighbouring touring caravan highlights the stark and jarring appearance of such structures in this part of the countryside.
30. The appellant's Landscape Strategy was provided in response to the Council's pre-application advice⁶, and includes proposed boundary planting which would provide some screening. However, the introduction of substantial tree planting along the roadside and to the rear as well as boundary hedgerows would significantly enclose the site, at odds with the open landscape character. The caravans would be set back from the road, but these structures, the parking areas and the hard surfaced access road would be evident in views from the lane and neighbouring land, harmfully eroding the undeveloped landscape.
31. Therefore, I conclude that the proposal would significantly harm the character and appearance of the area. This would be contrary to Policies DBE3, LB4 and HD10 of the LP where they require developments to be integrated into the landscape and conserve landscape character, amongst other things. I have found that the scheme would not harm the setting and significance of the Highstead CA. Thus, it would accord with Policies HE1 and HE6 of the LP where they seek to conserve the significance of heritage assets and their settings, including the historic character or appearance of CAs.

Agricultural land

32. The Council states that the site is grade 2 farmland which is classed as the best and most versatile (BMV) agricultural land. However, the site does not form part of

⁵ Appeal ref: APP/J2210/C/25/3362152

⁶ Pre-application number: PRE/25/000222

an agricultural holding and the Biodiversity Net Gain Assessment indicates that most of it comprises neutral grassland. The appeal site is sandwiched between two strips of land, none of which appear to be in agricultural use, with larger fields of arable land beyond.

33. Policy EMP12 of the LP seeks to protect the BMV farmland for the longer term. The proposal would result in the relatively small loss of grade 2 land which is not currently in agricultural use.
34. Consequently, I conclude that the proposal would not result in a harmful loss of the supply of agricultural land. In this respect, it would not conflict with the overall aim of Policy EMP12 of the LP.

Biodiversity net gain

35. There is now a requirement under the Town and Country Planning Act 1990 (the Act) for developments to provide at least 10% biodiversity net gain (BNG). The appellant's BNG Assessment indicates that a net gain of over 46% is achievable on the site. The Council's ecological advisor considers that these gains would be significant due to the enhancement of medium distinctiveness grassland and new tree planting, and as such should be secured for 30 years. The ecological advisor indicates that these habitats will need oversight by the Council through the collection of monitoring fees secured by a section 106 agreement and the submission and approval of monitoring reports to the Council.
36. The Council considers that a section 106 agreement to cover its monitoring costs for the BNG over 30 years should be provided before any planning permission is granted. No such legal agreement has been submitted. However, if approved, developments liable for statutory BNG are subject to a deemed biodiversity gain condition under Schedule 7A of the Act. If required, a legal agreement could be secured before this deemed condition is discharged.
37. Consequently, I conclude that there are mechanisms in place to ensure that the proposed scheme would deliver mandatory biodiversity net gain. In this respect, it would also accord with Policies HD10, LB8 and LB9 of the LP where they require such proposals to incorporate an environmental management plan and achieve ecological enhancements.

Other Considerations

Pitch supply

38. The National Planning Policy Framework (the Framework) recognises that the needs of Travellers should be assessed and planning decisions in rural areas should reflect local needs. The PPTS requires local planning authorities to make their own assessment of need and identify a five year supply of deliverable sites against their locally set targets.
39. The Council's Gypsy and Traveller and Travelling Showperson Accommodation Assessment (GTAA) February 2024 identifies a five year shortfall of 34 pitches in the period 2023/24 to 2027/28 and a total shortfall of 54 pitches up to 2040/41. These figures along with the Council's acknowledgement at that time that it could not demonstrate a five year supply of land for Gypsy and Traveller accommodation

purposes were considered by an Inspector in allowing an appeal in August 2025⁷. Nevertheless, the more recent GTAA from June 2025 identifies a reduced need for 43 pitches by 2042/43.

40. As part of the preparation of a new Local Plan, the Council recently consulted on a Focussed Regulation 18 Topic Paper. This identified eight existing sites which can be regularised and/or intensified to provide 23 additional pitches and two further suitable and available sites which can be developed to provide 21 pitches. These would provide a total of 44 pitches, exceeding the outstanding need over the new Local Plan period. However, the new Local Plan is at an early stage of preparation and there is no substantive evidence to demonstrate that the Council currently has a five-year supply of deliverable sites.
41. Consequently, from the evidence before me, there appears to be a significant shortfall in the current supply of Gypsy and Traveller pitches. The proposal would contribute towards the supply if it were to be occupied by Gypsies and Travellers. This is a significant benefit of the proposal which could be secured via an occupancy condition.
42. Gypsies and Travellers have the protected characteristic of race under section 149(7) of the Equality Act 2010. The public sector equality duty (PSED) at section 149(1) of the Equality Act requires me to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations.
43. As the proposal would contribute towards the Council's five-year supply of pitches and help to minimise disadvantage suffered by Gypsies and Travellers, I give significant weight to the provision of additional pitches.

Personal circumstances

44. The PPTS defines Gypsies and Travellers for planning purposes, indicating that these are persons of nomadic habit of life whatever their race or origin, including all persons with a cultural tradition of nomadism or of living in a caravan. The Council considers that there is insufficient evidence to demonstrate that the appeal scheme would be occupied by Gypsies and Travellers as defined in the PPTS.
45. The appellant states that the two pitches would provide accommodation for the father and mother on one pitch with the eldest son and his family on the other pitch. The father and son both work in the construction industry and use their mobile homes for travelling around the country for work. The mother comes from a family of Travelling Showpeople and although the work has changed, the family maintain their heritage and nomadic way of life.
46. It has not been clearly demonstrated that the site would be occupied by Gypsies and Travellers as defined in the PPTS. There is no suggestion that the intended occupiers need a settled base due to homelessness or access to health and education facilities. Nonetheless, in assessing the proposal, I have assumed that the site would accommodate Gypsies and Travellers who meet this definition.

Other

⁷ Appeal ref: APP/J2210/C/25/3362152

47. The appellant refers to the Defining Gypsy and Traveller Sites – Good Practice Guide, but this publication was withdrawn in September 2015, and national policy is now contained in the PPTS.
48. The Council did not find harm or development plan conflict in relation to several other matters, including parking, highway safety, archaeology, living conditions, protected species and impact on the Stodmarsh Nature Reserve. However, even if I were to agree with the Council on these points, the absence of harm is a neutral matter which does not carry weight in favour of the proposed scheme.

Planning Balance

49. It has not been demonstrated that the Council currently has a five year supply of deliverable sites. In these circumstances, as set out in paragraph 28 of the PPTS, the provisions in paragraph 11(d) of the Framework apply. Nevertheless, I have concluded that the proposal in combination with other development is likely to have a significant effect on the integrity of the Habitats Site. Therefore, paragraph 195 of the Framework states that the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
50. The biodiversity net gain which would significantly exceed the mandatory 10% uplift carries weight in favour of the proposed scheme. However, given the relatively small scale of the ecological enhancements, this benefit would be limited.
51. In contrast, I have found that the proposal is likely to have a significant effect in combination with other development on the integrity of the Habitats Site and the Habitats Regulations direct that permission must not be granted. Further, the site would be an unsuitable location for the proposed use, and the proposal would significantly harm the character and appearance of the area. The resulting conflict with Policies SP1, SP6, LB5, SP4, HD10, DBE3 and LB4 of the LP leads to conflict with the development plan as a whole and with the Framework and PPTS as set out above. This is sufficient for me to conclude that the proposal is unacceptable.
52. I have considered the option of granting permission for a temporary period. Whilst the Council's new Local Plan may result in clearer evidence of a five year supply of deliverable sites within the next few years, even a temporary permission would not be acceptable due to the impact on the integrity of the Habitats Site.
53. I have had regard to the PSED and the positive obligation imposed by Article 8 of the Human Rights Act 1998 (HRA) to facilitate the Gypsy way of life. However, even if the site were occupied by Gypsies and Travellers and having regard to the PSED and the provisions of the HRA, the specific nature of the harms identified means the outcome is a proportionate one.

Conclusion

54. The proposal does not meet the Habitats Regulations requirements, and it conflicts with the development plan. The material considerations, including the PPTS and the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan and Habitats Regulations. Therefore, the appeal should be dismissed, and planning permission should be refused.

A Wright

INSPECTOR