



Appeal Decision

Site visit made on 17 March 2026

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st March 2026

Appeal Ref: APP/U2235/W/25/3376954

Land to the east of Water Lane, Headcorn, Maidstone TN27 9JP

- 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 R Lee on behalf of S & B Car & Van Hire Ltd against the decision of Maidstone Borough Council.
 - The application Ref is 25/503519/FULL.
 - The development proposed is 6 number static units, space for 6 number touring caravans and associated parking, 2 facility blocks all for gypsy and traveller use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development would be at risk of flooding; and
 - the effect of the proposed development on the water environment.

Reasons

Flood Risk

3. The site is an area of grass and scrub vegetation next to a rail embankment, with a stream to the east and a large pond to the west. To the north of the site are open paddocks and fields. The site is in a rural, countryside location.
4. In addition, the appeal site's access track serves existing gypsy and traveller pitches to the north, before crossing a culvert and joining Water Lane. Therefore, within the immediate area there is development of a similar type to the proposal.
5. The Environment Agency (EA) identify the site as lying within Flood Zone 3b. This is the functional floodplain where water from rivers or the sea has to flow or be stored in times of flood and is defined by the Planning Practice Guidance (PPG) as having a high probability of flooding¹.
6. The proposal would involve the change of use of the land for the siting of six static caravans and six touring caravans. The flood risk vulnerability classification at Annex 3 of the National Planning Policy Framework (the Framework) identifies caravans as highly vulnerable to flooding. The PPG indicates that highly

¹ PPG Paragraph: 078 Reference ID: 7-078-20220825

vulnerable development is incompatible with Flood Zone 3b and should not be permitted on such land².

7. The EA is the public body responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea. The EA object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone.
8. The appellant notes the site has experienced frequent heavy rain since last November and there is no standing surface water or flooding on the site. However, this does not demonstrate the site would not be at unacceptable risk of flooding. The EA advise that to overcome its objection the layout would require review to avoid any development within Flood Zone 3b. I have been provided no information to demonstrate the development could be accommodated only within land outside the functional floodplain.
9. The appellant asserts the site's ground level is higher than that of nearby gypsy and traveller sites and the neighbouring pitches were granted consent despite being in Flood Zone 3. I have not been provided details of decisions relating to nearby sites and I cannot be certain of the flood risk or other considerations pertinent to those decisions. I do not consider the presence of nearby similar development would justify inappropriate development in the flood zone.
10. The site's access adjoins Water Lane which meets Moat Road and connects to the town of Headcorn a short distance away. Nonetheless, it is not demonstrated that the site would offer safe access and egress during a flood event. The rail embankment is a tall landscape feature which the appellant suggests would offer refuge during a flood event, but no evidence has been provided to demonstrate persons could be safely evacuated from this location. Furthermore, paragraph 170 of the Framework seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk. The siting of the development in this location would be counter to the Framework's sequential approach to flood risk, and therefore the presence of the raised embankment would not justify siting the development in this location.
11. As set out above, the proposed development would be highly vulnerable to flooding and would be sited in the functional floodplain which has a high flood risk. The proposal would be incompatible with the flood zone and would fail to provide safe living accommodation for the lifetime of the development. Consequently, the proposal would place future occupants at unacceptable risk of flooding.
12. The proposal would conflict with Policy LPRSP15 of the Maidstone Local Plan Review which requires development provide adequate residential amenity for future occupiers and create a safe and secure environment.

Water environment

13. The proposal indicates foul water would be discharged to sealed tanks and emptied by a licensed contractor on a regular basis. The proposed development would therefore involve use of a non-mains foul drainage system.
14. The PPG advises that applications for developments relying on anything other than connection to a public sewage treatment plant will need to be supported by

² PPG Paragraph: 079 Reference ID: 7-079-20220825

sufficient information to understand the potential implications for the water environment³. No assessment of the risks of pollution has been provided.

15. As discussed, the site is in proximity of waterbodies and relates to land in the functional flood plain. Based on the information before me and having regard to the potential pathways for pollution to enter the water environment, I cannot be certain that a non-mains foul drainage system would be suitable in this location. Therefore, it would not be appropriate to secure a foul water assessment through a planning condition. I have also had regard to the advice of the EA who, in the absence of an assessment of pollution risk, object to the proposal.
16. For these reasons, the proposal fails to demonstrate the proposed development would not harm the water environment.
17. The proposal would therefore conflict with Maidstone Local Plan Review Policy LPRSP14(A) which requires proposals control pollution to protect ground and surface waters and mitigate against the deterioration of water bodies.

Other Matters

18. The appellant asserts the Council has a high need for gypsy and traveller pitches and cites an appeal decision which identifies the Council had 1.2 years supply of pitches, which the Inspector concluded amounted to a significant shortfall in supply and of considerable weight in the scheme's favour⁴. The proposal would contribute positively toward the supply of pitches in the Council's area.
19. Paragraph 24 of Planning Policy for Traveller Sites (PPTS) requires proposals be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the Framework and PPTS. As a consequence of the shortfall in pitch supply, Framework paragraph 11(d) is engaged in the determination of this appeal. Paragraph 11(d)(i) indicates that permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development. As indicated by footnote 7, this includes the Framework's policies for areas at risk of flooding.
20. Paragraph 170 of the Framework states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. As set out above, the proposed development would be incompatible with the flood zone. Consequently, policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development and the presumption in favour of development would not apply.
21. Occupation of the proposed development would be restricted only to persons who meet the definition of gypsies and travellers, as set out at annex 1 of the PPTS. The proposal would contribute toward the three aims of the Public Sector Equality Duty set out in s149 of the Equality Act 2010 through eliminating discrimination and advancing equality of opportunity by providing accommodation that is appropriate to the traditions and culture of gypsies and travellers.
22. However, this benefit would not outweigh the risk to the safety of future occupants from flooding. Furthermore, the prevention of harm to the water environment is a

³ PPG Paragraph: 020 Reference ID: 34-020-20140306

⁴ Appeal reference: APP/U2235/W/24/3345757

legitimate aim of the planning system to serve wider public interests. Dismissal of the appeal is therefore proportionate and necessary.

23. By its nature, flood risk is perpetual and indiscriminate, and therefore the potential harm would not be mitigated through use of temporary or personal permissions.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR