

# Appeal Decision

Site visit made on 6 January 2020

**by Ian Harrison BA Hons DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> March 2020**

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**Appeal Ref: APP/X2220/W/19/3239350**

**Land at New Dover Road and Winehouse Lane, Capel-Le-Ferne,  
Kent CT18 7HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by White Cliffs Caravan Park against the decision of Dover District Council.
  - The application Ref 18/00819, dated 31 July 2018, was refused by notice dated 17 April 2019.
  - The development proposed is the change of use of land to site 26 no. holiday caravans and associated landscaping and access.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The description of development used in the heading above is an amended description that has been taken from the Council's decision notice and the appeal form. This reflects amendments that were made to the proposal following the submission of the application and I have determined the appeal on that basis.

## Main Issues

3. The main issues are the effect of the development on:
  - The character and appearance of the site, the surrounding area and the Kent Downs Area of Outstanding Natural Beauty (The AONB)
  - Protected Habitats and Biodiversity.

## Reasons

### *Character and Appearance*

4. The appeal site is located outside the settlement boundary of Capel-Le-Ferne as designated by the Council's Core Strategy<sup>1</sup> (CS) in an area that features a mixture of residential buildings, caravan parks, agricultural land and other undeveloped land. The site is part of a wedge of land that sits between The AONB and a section of Heritage Coast which is located to the opposite side of Old Dover Road. The Capel Court Caravan Park is located on the opposite side of Winehouse Lane, with the accommodation and buildings at that site extending up to the boundaries with the adjacent roads. 3 further caravan

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<sup>1</sup> Dover District Local Development Framework Core Strategy, adopted February 2010.

parks are located within the surrounding area, including within the adjacent AONB, and are therefore an existing feature of the wider landscape.

5. The site currently features paddocks and stabling, with intermittent hedgerows and trees close to the highway frontages and post and rail fencing throughout and at the edges. As a result of it hosting minimal built form and it being the first sparsely developed plot outside of the settlement at this side of New Dover Road, the site represents the point where development becomes more dispersed and the character of the area becomes predominantly rural. Due to the presence of other buildings and uses in the wider area, the undeveloped parcels of land between and around them play an important role in creating a sense of spaciousness which, in turn, enables the area to benefit from a semi-rural character. In this regard, the site makes a substantial contribution to the character of the countryside as it is particularly prominent along the approach towards the settlement and connects other areas of undeveloped land that surround Capel-Le-Ferne.
6. The proposal includes the siting of 26 caravans at the site, with an area of open space adjacent to the New Dover Road. Access would be provided onto Winehouse Lane with a circular estate road within the site that would have a spur leading to the side of the open space. The proposals indicate that tree and hedge planting would occur throughout the site, but particularly along the highway frontages.
7. The development would be conspicuous from both New Dover Road and Old Dover Road and would represent the sprawl of the adjacent development into the countryside. This would lead to the substantial erosion of the spaciousness of the site and reduce the contribution it makes to the rural character of the locality. This would result in considerable harm to the character and appearance of the area. Although the appellant's Landscape Visual Impact Assessment (LVIA) indicates that the proposed planting at the boundaries of the site would eventually screen the development to an extent, the submissions indicate that the caravans would still be partially visible from around the site and as such the effect of the development would not be wholly mitigated, particularly in winter. In any event, by restricting views, the landscaping would reduce the contribution that the open and largely undeveloped site makes to the character of the countryside.
8. It has been suggested that the proposed caravans would be of high quality in terms of materials, appearance and internal accommodation. Whilst a version of the condition that has been suggested by the appellant might have the effect of controlling the appearance of the first caravans to be installed at the site, any judgement of quality would be subjective and it would not be possible to ensure that the caravans are not replaced or altered. Therefore, I cannot be certain that such a condition would be effective or enforceable and I am not able to give weight to the appellant's intentions to provide caravans of different appearance to those that currently exist within the vicinity of the site. In any event, the appearance of the caravans would not mitigate the visual effect of their presence on the character and appearance of the site and the semi-rural locality.
9. The appellant's LVIA identifies that upon completion, the effect of the development from some vantage points would be very low and from others it would be negligible. However, even allowing for the mitigating landscaping that is proposed, the proposal would cause a substantial change to the open, largely undeveloped appearance of the site and reduce its contribution to the spaciousness of the locality. Therefore, whilst it might be possible to mask the caravans in time, this would not avoid the development imposing on the open character of the countryside.

10. Turning to the effect of the development on the adjacent AONB, both parties identify that the site is outside but adjacent to the AONB. The adjacent section of the AONB is characterised by featuring large, hedgerow bound, arable fields with extensive views across the land being possible due to the gradually undulating topography of the area. The A20 road represents a substantial landmark within the locality and leads the adjacent part of the AONB to be partitioned off from the wider designation. As required by paragraph 172 of The National Planning Policy Framework (The Framework), I afford great weight to the conservation and enhancement of the landscape and scenic beauty of the AONB.
11. Due to the site being on the opposite side of New Dover Road and the topography of the area, the site is distinguishably separate from the AONB. In this context, the setback position of the caravans, the proposed and existing vegetation at the site and in the locality and the changing ground levels, ensures that only glimpses of the caravans would be possible from most public vantage points within the AONB. Caravan parks already exist within the adjacent part of the AONB and, as such, the proposed development would not represent a jarring addition to the landscape from those parts of the AONB where glimpses of it are possible. Therefore, whilst the proposal would alter the setting at its very edge, it would not alter the landscape and scenic beauty of the adjacent part of the AONB and would not conflict with the aim of conserving its beauty. Furthermore, given the setback of the caravans and the intervening landscaping, the proposed caravans would not impede views into the AONB to an extent that would alter its appreciation or value.
12. Residential development has occurred at an allocated housing site further along New Dover Road after planning permission was granted at appeal<sup>2</sup>. The site is located between the former edge of the settlement and the Capel Court caravan park and as such the Inspector was satisfied that the position of the site and the presence of a landscaping buffer would have provided suitable mitigation to minimise the effect of the development on the AONB. As set out above, I have a similar view in respect of the effect of this proposal on the AONB, but as the site is not so well screened by other development, the proposal would have a greater effect on the character and openness of the countryside that is outside of the AONB. As such, the development at the nearby site does not represent a reason to grant planning permission for this proposal.
13. Turning to other considerations, the need for high quality tourist accommodation has been identified by the Council's Strategic Tourism Manager and the appellant, but this need has not been supported by detailed evidence. As the anecdotally identified need has not been substantiated, it is not possible to know the extent of the need, what proportion of the need would be met by this proposal and whether it is specific to Capel-Le-Ferne or the District as a whole. The presence of other caravan parks within the locality is not necessarily evidence of demand. Moreover, whilst it has been suggested that demand for accommodation exceeds supply at other sites within the locality, including the appellant's, the evidence presented to demonstrate this is also anecdotal. As such, it is not possible to give more than minimal weight to the suggestion that the accommodation is needed and that there are no other sites available that could meet this need.
14. Furthermore, as the perception of quality is largely subjective and due to the flexible nature of caravan development, it is not possible to secure that this

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<sup>2</sup> Appeal decision APP/X2220/W/16/3152817

- proposal would include and subsequently retain accommodation that would meet the suggested need for high quality accommodation.
15. The appellant operates another Holiday Park within the locality and the sites would be able to share management. However, the proposal was advanced as a stand-alone operation that was separate from the existing site, thereby not representing an expansion. As such, there is no evidence of a functional requirement for the accommodation to be provided in close proximity to any other park or at this location. In this regard an appeal decision<sup>3</sup> relating to land at St Margaret's Holiday Park has been brought to my attention, but insufficient details have been provided of the evidence relied upon in that case or the character and appearance of that site and its context for me to be able to afford it more than minimal weight. In any event, as that related to the expansion of an existing park, it appears to be markedly different and as such the 'functional need' that is identified in that circumstance does not appear to be applicable in this case.
  16. Furthermore, whilst a rural location is understandably preferable for developments of this type and the business model of the appellant, that does not represent a functional requirement to locate such a proposal at this site specifically.
  17. Although the main parties disagree over the extent of economic benefit that would be derived, the proposal would enable jobs to be created at the site and additional spending would occur within the local economy during construction and occupation. Even if the economic benefit was to the extent that has been suggested by the appellant's evidence, the significant weight that paragraph 80 of The Framework encourages me to afford it does not outweigh the considerable harm that would be caused in respect of the effect on the character and appearance of the site and the surrounding area.
  18. Policy DM15 of the CS identifies that development that would have an adverse effect can be supported where it meets a need to sustain the rural economy or rural community. However, CS Policy DM15 also requires that the effect of such development is reduced as far as practicable. Furthermore, whilst paragraphs 83 and 84 of The Framework support sustainable rural tourism and leisure development and identify that local business and community needs in rural areas may have to be met on sites that are outside settlements, they also require that development respects the character of the countryside and is sensitive to its surroundings. For the reasons set out above, the proposal fails to accord with these requirements. Therefore, even though the economic benefits of the proposal carry significant weight, the suggested benefits of the development would not outweigh the harm that would be caused by the development not respecting the character of the countryside nor being sensitive to its surroundings.
  19. Therefore, whilst I am satisfied that the proposal would not alter the landscape or scenic beauty of the AONB or its setting in a manner that conflicts with policy DM16 of the CS or paragraph 172 of The Framework, the proposal would have a harmful effect on the character and appearance of the site and the surrounding area. The proposal would therefore be contrary to policies DM1 and DM15 of the CS which combine to require that the countryside is not adversely affected by development unless it is functionally required to be in that location, is ancillary to an existing development or use or is needed to sustain the rural economy or community. The proposal would also be contrary to paragraphs 83, 84, 127 and 170 of The Framework which together require that the development would respect the character of the countryside, be sensitive to its surroundings and contribute to or enhance the countryside.

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<sup>3</sup> Appeal decision APP/X2220/A/12/2187965

### *Protected Habitats and Biodiversity*

20. The Council and specialist consultees have identified that up to 40% of the site contains chalk grassland and that this is a Priority Habitat that is protected by the Natural Environment and Rural Communities Act 2006. I have, therefore, had regard to the duty to conserve biodiversity. In this respect, the evidence provided by the Council includes limited detail and does not indicate that any form of on-site assessment has occurred.
21. Conversely, the appellant has undertaken a detailed and investigative assessment of the site, including the identification of present grasses and the digging of trial pits, which remained open at the site. The submissions conclude that the soil types are acidic, thereby not being calcareous, and the grasses at the site were not rare. It has also been suggested that the presence of species akin to a chalk grassland reflects the proximity of the site to other such areas rather than being an indicator of chalk grassland at this site.
22. The detail of the appellant's submissions, which have not been challenged by the Council who have instead relied upon the initial comments of consultees, leads me to conclude that the presence of chalk grassland at the site has not been demonstrated. As such, I have no basis to conclude that the development would cause the loss of a protected habitat. Furthermore, in the absence of evidence that would lead to the site being considered a protected habitat, there is no basis to conclude that the recreational use of the site and the occurrence of dog-fouling would cause the deterioration of a habitat.
23. For this reason, the proposed development would not be contrary to the parts of paragraphs 170, 174 and 176 of The Framework and the Natural Environment section of the Planning Practice Guidance which combine to require that sites of biodiversity and geological value are protected and enhanced and that priority habitats are conserved, restored and enhanced.

### **Other Matters**

24. The proximity of the site to public transport connections and local services enables the site to be considered reasonably accessible. However, this is not a benefit that represents a reason to grant planning permission in light of the harm that has been identified.

### **Conclusion**

25. Bringing together my conclusions in respect of the main issues, whilst the proposal would have economic benefits, that I afford significant weight, and I have found that the development would not give rise to harm in some respects, these factors do not outweigh the considerable harm that would be caused to the character and appearance of the site and the surrounding area. I therefore conclude that the appeal should be dismissed.

*Ian Harrison*

INSPECTOR