



Appeal Decision

Site visit made on 7 August 2023

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **12 September 2023**

Appeal Ref: **APP/V2255/W/22/3294231**

Fifield Lodge, School Lane, Borden, Sittingbourne, Kent ME9 8JS

- 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 Tina Green against the decision of Swale Borough Council.
 - The application Ref 21/503049/FULL, dated 7 June 2021, was refused by notice dated 30 September 2021.
 - The development proposed is a total of four handmade timber glamping pods for guests along with recycling/waste, cycle store area and a shower/toilet and communal kitchen block. One parking bay per pod is proposed, with an existing entrance and parking/turning area. Each guest pod will have a small area of decking to the front.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of 4no. handmade timber glamping pods with decked area to front with associated recycling/waste, cycle store area and a shower/toilet and communal kitchen block, 1no. parking bay per pod, with an existing entrance and parking/turning area at Fifield Lodge, School Lane, Borden, Sittingbourne, Kent, ME9 8JS in accordance with the terms of the application, Ref 21/503049/FULL, dated 7 June 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development in the heading above which has been taken from the application form, the development is more fully described on the decision notice as 'siting of 4no. handmade timber glamping pods with decked area to front with associated recycling/waste, cycle store area and a shower/toilet and communal kitchen block, 1no. parking bay per pod, with an existing entrance and parking/turning area'. The Council determined the application on that basis, and I have therefore used that description in my decision. The development is part retrospective as one pod and the shower/toilet and communal kitchen block are in place.

Main Issues

3. The main issues are:
 - whether the development would be in an appropriate location with regard to the development strategy for the area and the character and appearance of the area; and
 - the effect of the development on the living conditions of nearby residents with regard to disturbance.

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Reasons

Development Strategy

4. The site is located on land regarded as being within the open countryside under the terms of Policy ST3 of the 2017 adopted Swale Borough Local Plan (the LP). In such locations, Policy ST3 states that development will not be permitted unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
5. In addition to the settlement strategy defined in Policy ST3, which seeks to focus new development in accessible locations with good access to services, facilities and public transport, Policy ST1 of the LP sets out a number of sustainable development principles. These include building a strong competitive economy and supporting a prosperous rural economy; achieving good design through reflecting the best of an area's defining characteristics; meeting the challenge of climate change including through managing emissions; and conserving and enhancing the natural environment through a number of measures such as protecting, and where possible, enhancing, the intrinsic character, beauty and tranquillity of the countryside.
6. The National Planning Policy Framework (the Framework) seeks to achieve sustainable development, with paragraph 8 setting out that the planning system has three overarching economic, social and environmental objectives to achieve this.
7. Paragraph 80 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the specified circumstances apply. Although the site is positioned within an area of countryside for development plan purposes, it is nonetheless close to Borden which falls within the 'other villages with built-up area boundaries' settlement tier as set by Policy ST3. In addition, the Borden Primary School is adjacent to the site, with the pre-school located across the road, and there are a number of dwellings positioned on the road between the site and Borden, including two close to the entrance to Fifield Lodge.
8. In light of this context, and being mindful of the Braintree¹ judgement, in my judgement, and for the purposes of considering paragraph 80 of the Framework, I find that the site is not remote from a settlement. As such, the proposal would not represent isolated homes in the countryside.
9. There is a pavement between the site and the village, the topography is generally level and the speed limit along the road is 30mph. The environment would not therefore inhibit guests from walking or cycling to the facilities within the village, which although limited, do include a pub, a church and bus stops.
10. Given these circumstances, in my judgement, the proposal would not undermine the locational aims of the LP or the Framework to avoid unsustainable patterns of development.
11. The Framework, and the LP through Policy DM3, seek to support sustainable tourism development and existing businesses in appropriate locations in rural

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

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areas. The appellant has provided information on visitor spend within the borough and the potential local spend that could be generated by the proposal, which is not insubstantial. No substantive evidence has been provided to contradict this.

12. The proposal would not re-use an existing building, which Policy DM3 of the LP states should firstly be considered for rural based employment development. However, it would be difficult to provide the accommodation model proposed in an existing building. In this regard, I am mindful of the consultation response of the Council's Economy and Community Services Manager which identifies that the development would provide a type and style of accommodation that is relatively unique in the area and would *'attract a market that is seeking a specialist product and willing to pay a premium price for the qualities as set out, location and security of space'*.
13. Overall, the proposal would have economic benefits and would gain support from LP Policy ST1 and paragraph 84 of the Framework, which support the principle of a prosperous rural economy.
14. I therefore conclude that the development would be in an appropriate location, with regard to the development strategy for the area. Accordingly, the proposal would not conflict with the requirements of Policies ST1, ST3 or DM3 of the LP in this regard, as summarised above, or paragraph 80 of the Framework.

Character and Appearance

15. As set out above, Policies ST1 and ST3 also require that proposals in the countryside should contribute to protecting the character and appearance of the countryside. The site also lies in an Important Local Countryside Gap (ILCG) as defined in Policy DM25 of the LP. The purposes of the ILCGs include maintaining the separate identities and character of settlements by preventing their merging, which in this case would be Sittingbourne and the satellite villages which includes Borden; safeguarding the open and undeveloped character of the areas; and preventing encroachment and piecemeal erosion by built development or changes to the rural open character.
16. The site falls within the Borden Mixed Farmlands character area as defined in the 2011 Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (the SPD). Its characteristics include a rolling topography; an enclosed landscape with hedgerows, isolated woodland and orchards; small scale fields; urbanised ribbon development along its western boundary; and traditional land uses.
17. A number of these characteristics are present within the area surrounding the appeal site. Relatively narrow hedge lined roads, fields bounded by hedgerows and a gently undulating topography are apparent.
18. However, the character and appearance of the appeal site is not one of open undeveloped countryside. It forms part of the large rear garden of Fifield Lodge. Within the wider site at Fifield Lodge is an existing holiday unit, an open fronted barn which holiday guests can use as a dining space and games area, and an indoor swimming pool which is also available to holiday guests. Consequently, the appeal site appears to relate more to the built form associated with Fifield Lodge than it does to the surrounding countryside, being

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more domestic in character and appearance rather than exhibiting the characteristics of the surrounding rural landscape.

19. This is compounded by the strong sense of containment from the surrounding countryside that is afforded by the existing boundary features. The appeal site is bounded by tall and fairly densely planted trees along its northern boundary and much of its western boundary. This tree line extends along the north and east boundaries of the wider site. It forms a clear and pronounced boundary between both the appeal site and the wider grounds of Fifield Lodge, and the open countryside to the north.
20. This is clearly apparent when viewed from the Public Right of Way (PRoW) that runs to the north east of the site. From vantage points along this PRoW, the development would be screened from view by the line of tall trees. I appreciate that views may be more apparent during winter months when the trees are not in leaf, although they would likely still provide a degree of screening due to the high density of branches. If visible from the PRoW during winter months, the development would be read within the context of Fifield Lodge and other built development on the north side of School Lane. The use of dark timber boarding on the pods would additionally help to minimise the prominence of the development in these views.
21. Views from School Lane are restricted by the screening afforded by the built development associated with Fifield Lodge and the boundary fence. The site is screened by thickly planted vegetation and trees in longer distance views from the south and west, including from Munsgore Lane and the PRoW that extends westwards from Borden Primary School. As with views from the north, while the development may be more discernible in winter months, it would be viewed as part of the cluster of buildings here. Further to the west, the development would not be readily discernible due to the screening effect of intervening buildings and vegetation and the rolling topography which foreshortens views.
22. I appreciate that the proposal is not one of the types of development identified in the supporting text to LP Policy DM25 as more likely to be approved in an ILCG. However, these appear to be examples rather than a closed list of acceptable development types.
23. For the above reasons, the development would not read as an encroachment into the open countryside, would not undermine the purposes of the ILCG and would conserve the landscape character of the area. I therefore conclude that the development would not unacceptably harm the character and appearance of the area. Accordingly, it would not conflict with the requirements of Policies ST1, ST3 and DM25 as summarised above, or Policy DM14 of the LP which requires development to be both well sited and of a scale, design, appearance, and detail that is sympathetic and appropriate to the location, amongst other matters.

Living Conditions

24. The Council has raised concern that the proposal would alter the tranquil character of the site to the detriment of the amenities of occupiers of the host property and surrounding neighbouring properties.
25. There would be some intensification of traffic movements at the site. However, the additional vehicle movements likely to be generated would not increase

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noise or disturbance to a point that would significantly harm the living conditions of nearby residents including those of the host property. There would be some increase in noise and disturbance from the parking area arising from engine noise, slamming doors and voices. However, there would be a reasonable separation between this area and the host dwelling and a greater separation distance to other nearby dwellings.

26. Although the adjacent primary school would contribute to background noise levels, particularly when children would be using the outdoor areas, noticeable noise would be concentrated during school hours. Nevertheless, given the scale of the proposal, the separation distance from nearby residential properties including the host dwelling, and the boundary features, the intensity of use would not be such that the proposal would harm the tranquil character of the site to the detriment of the living conditions of nearby residents.
27. I therefore conclude that the proposal would not have an unacceptable effect on the living conditions of nearby residents with regard to disturbance. Accordingly, the proposal would not conflict with the amenity requirements of Policy DM14 of the LP.

Other Considerations – Effect on the Swale Special Protection Area (SPA)

28. The Council identifies that the site lies within 6km of the Swale SPA. The SPA is a wetland classified for its assemblages of breeding bird and waterbird. The evidence indicates that birds are at risk of disturbance from recreational activities. Due to the proximity of the site, there is a reasonable likelihood that the SPA would be accessed for recreational purposes by future visitors.
29. There is no basis for me to dispute Natural England's advice on the proposal's likely impact on the SPA's qualifying features in view of its conservation objectives. Consequently, when considered in combination with other developments in the area, there would be a likely significant effect on the qualifying features of the SPA from the proposal. Therefore, as the competent authority, it is necessary for me to undertake an Appropriate Assessment (AA). Having consulted Natural England through the course of this appeal, I have had regard to its consultation response in undertaking the AA.
30. Considering the conservation objectives, there would be adverse effects on the integrity of the SPA from the proposal through increased disturbance to the qualifying features from recreational activity. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts.
31. In its consultation response on the planning application, Natural England confirmed that the Council has measures in place to manage the potential impacts that may result from increased recreational disturbance through an agreed strategic solution which requires financial contributions from developments towards mitigation measures. Natural England considers the Council's approach to be ecologically sound. This response also confirmed that if appropriate financial contributions were secured, mitigation measures would be in place to avoid adverse impact in terms of recreational disturbance.
32. As part of the appeal documentation, the appellant submitted a completed unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990. This would provide a financial contribution of £275.88 per holiday unit to be made in accordance with the mitigation strategy. This figure

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coincides with that identified in the Council's appeal statement. Natural England has confirmed that the proposed financial contribution to mitigate the effect on the SPA would be sufficient to avoid an adverse impact to its integrity.

33. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) sets out three tests that planning obligations must meet. I am satisfied that the financial contribution is necessary to make the proposal acceptable in planning terms as the obligation would contribute towards the provision of mitigation services. Given the location of the appeal site within 6km of the SPA, the contribution would be directly related to the appeal proposal. In addition, as it relates to a standard charge based on the scale and type of development proposed, it would be fairly and reasonably related to the proposal in scale and kind.
34. For the above reasons, I am satisfied that the planning obligation would meet the requirements of the Framework and the CIL Regulations. I therefore give it significant weight in the determination of this appeal.
35. In conclusion, I am satisfied that with the proposed mitigation measures contained in the UU, the development would not have an adverse effect on the integrity of the SPA either alone or in combination with other plans and projects.

Other Matters

36. The Council has drawn attention to an appeal decision² for holiday accommodation which it contends is relevant to the appeal proposal. From the submitted evidence, the nearest settlement in that case was within settlement tier 6 in the settlement hierarchy in LP Policy ST3 which are defined as having limited or non-existent services, whereas Borden is in tier 5, with more services and facilities. In addition, the nearest larger settlement was located further from the site than is the case here. On the basis of the available evidence therefore, I do not find this example to be directly analogous to the appeal proposal. In any event, I have evaluated the appeal proposal on its individual planning merits.

Conditions

37. I have considered the conditions suggested by the Council and have amended the wording of certain conditions in the interests of precision.
38. As the appeal proposal is part retrospective, it is not necessary to impose the standard time condition. However, for certainty, one is required to ensure that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area, conditions are necessary to require a landscaping scheme and appropriate replacement planting. A condition to limit the times for construction work is necessary in the interests of the living conditions of nearby residents. In the interests of highways safety, a condition is necessary to ensure adequate parking provision. To encourage more sustainable travel options, conditions are necessary to secure the provision of cycle parking and electric vehicle charging points. As the proposal is for tourism purposes, it is necessary to restrict it to this use.

² Appeal reference APP/V2255/W/20/3271083

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Conclusion

39. The proposal would accord with the development plan as a whole, and there are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson BSc (Hons), MRTP

INSPECTOR

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SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 210322-01-01 Rev B; 210322-01-02 Rev B; 210322-01-02a Rev B; 210322-01-04 Rev B; 210322-01-05; 210322-01-06; 210322-01-06 Rev B; 210322-01-08; 210322-01-09; and 210322-01-11.
- 2) Within three months of the date of this decision, details of both hard and soft landscape works shall be submitted to the Local Planning Authority for approval in writing. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details and implementation programme.
- 3) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, die, or become severely damaged or seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species and within the planting season as approved in writing by the Local Planning Authority.
- 4) No construction work in connection with the development shall take place except between 7.30am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and at no time on Sundays or Bank Holidays, unless in association with an emergency or with the prior written approval of the Local Planning Authority.
- 5) The area shown on the approved plans as vehicle parking spaces shall be provided within three months of the date of this decision, and this area shall at all times be retained for the use of the occupiers of the holiday accommodation. No permanent development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), shall be carried out on this area of land so shown or in such a position as to preclude vehicular access to this area.
- 6) Within three months of the date of this decision an implementation programme for the provision of one electric vehicle charging point for each glamping pod shall be submitted to the Local Planning Authority for approval in writing. The electric vehicle charging points shall be installed in accordance with the approved details.
- 7) Within three months of the date of this decision an implementation programme for the provision of secure, covered cycle parking facilities for each glamping pod shall be submitted to the Local Planning Authority for approval in writing. The cycle parking facilities shall be installed in accordance with the approved details.
- 8) The glamping pods hereby permitted shall be used solely for the purpose of holiday accommodation; shall not be used by any person or persons as their

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sole or main residence and the accommodation shall not be occupied by any person or group of persons for more than four weeks in any calendar year.