



Appeal Decision

Hearing held on 5 November 2008
Site visit made on 5 November 2008

by **L Rodgers** BEng CEng MICE MBA

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
2 December 2008

Appeal Ref: APP/E2205/A/08/2071417

Frith Field, Aldington Frith, Ashford, Kent, TN25 7HH

- 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 Mrs Jacqueline Barker against the decision of Ashford Borough Council.
- The application Ref 07/01468/AS, dated 4 August 2007, was refused by notice dated 21 November 2007.
- The development proposed is a mobile home to be sited as additional living space.

Decision

1. I dismiss the appeal.

Procedural matters

2. According to the appeal documentation the appellant now intends to site the mobile home somewhat further north than proposed in the original application. Despite the annotations shown on the aerial photograph submitted as document 3, the Council confirmed at the hearing that it had reached its determination based on the originally submitted drawings.
3. The revised positioning would require the demolition of a small outbuilding and would extend outside of the original application site. There has also been a change in the design of the mobile home. Having considered both the submitted documentation and the evidence presented at the hearing it is my view that the proposed re-siting and altered design would constitute a material change to the application. I have therefore reached my determination based on the original submission.
4. The date of the application given in the header above is as shown on the application form although I note that certain documents were submitted after that date. The address was confirmed at the hearing as Frith Field.

Policy Background

5. The Ashford Borough Core Strategy was formally adopted by the Council in July 2008. As a consequence, some of the policies referred to in the Council's decision notice have been superseded. However, only certain of the policies in the Ashford Borough Local Plan 2000 (LP) were replaced by policies in the Core Strategy (CS). Those local plan policies which were not replaced, and which have been saved by direction of the Secretary of State, remain applicable. I have taken this into account in my determination.
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Main issue

6. I consider that there is one main issue. Whether or not the proposed development would be harmful to the objectives of local and national policies designed to protect the countryside and ensure sustainable development and, if so, whether any harm would be outweighed by the personal circumstances of the appellant.

Reasons

7. Frith Field lies in a rural area outside the confines of any settlement boundary. From what was said at the hearing I understand that the appellant, who is registered as disabled, occupies the property along with her daughter and her daughter's boyfriend. The appellant's mother, who was acting as her carer up until December 2007, lives in the Annexe, one of the adjacent buildings within the curtilage of the main property. Following an application for lawful development (existing) in 2005 (05/01095/AS) for use of the Annexe as a separate independent dwelling unit the Council determined that "the existing development is not lawful".
8. The application proposes to site a mobile home within the curtilage of Frith Field in order to provide accommodation for a full time carer. It is intended that this role would be filled by the appellant's aunt. Although the appellant initially considered that a temporary permission may suffice it was confirmed at the hearing that this is no longer deemed appropriate. The appellant raised no objection to the Council's proposal that any approval be linked to her continued requirement for a carer.
9. The proposed mobile home would be substantial in size and despite the appellant's views would, to my mind, have at best only a passing affinity with the style of the other buildings on the site and in the surrounding area. Consequently, it would appear an incongruous addition to the rural setting. Although the aerial photographs show that the proposed location would, at one time, have been partially screened by a large tree, the appellant confirmed that this had come down some time ago. I saw on my visit that the mobile home would be clearly visible across open fields from Laws Lane to the rear and would add to what is already a substantial amount of piecemeal development on the site.
10. It was suggested by the appellant that additional planting could be carried out in order to screen the home. However, given the size of the mobile home, it would take some considerable time before any screening was properly established. If that screening was to comprise vegetation appropriate to the area it may, in any event, never be fully effective all year round.
11. I am conscious that what is being sought is an addition to the already substantial number of buildings on the property. The appellant points out that the proposed mobile home would be sited where an earlier building had been demolished - on the basis that it had become dangerous and an eyesore. However, whilst the building can clearly be seen on the aerial photographs, there is little evidence remaining on the ground. In my view the proposed mobile home could not be regarded as replacing the former building.

12. The appellant has also pointed out that the proposed unit would be a mobile unit on wheels and it is hoped that, should the appellant's condition improve, the need for the home would disappear. Nevertheless, permission is not being sought on a temporary basis and the proposed mobile home could be there for some time. It is therefore my view that the proposed development would be materially harmful to the character and appearance of the area.
13. In terms of sustainability, the appellant notes that having her aunt resident on the property would avoid the need for carers to drive out to the site on a regular basis. Nevertheless, anyone living on the property would still require the likes of food and medical and other services in their own right. Whilst I accept that, in the particular circumstances proposed, some shopping or other trips may be shared it is unlikely that this would always be the case. In any event, even if the number of journeys to and from the site were to be neutral, or indeed reduced, this would not affect my concerns over character and appearance.
14. I note that the original intention was for the mobile home to be used by the appellant's son to free up space in the main dwelling. However, I understand that the appellant's son has moved out and that the intention is now for the carer to live in the mobile home. Whilst I understand the appellant's wish for a degree of privacy from her carer that could be provided for by accommodation outside the main house, the fact that the appellant's son has moved out must have freed up some space. The appellant suggests that use of the mobile home would be mostly for sleeping and its use would be very much ancillary to that of the main residence. However, as noted by the Council, the proposed mobile home would contain two bedrooms. To my mind this seems to be more than would be necessary in the circumstances.
15. In any event, the submitted brochure details show that the mobile homes are designed to provide independent living accommodation and could be used as such. Whilst I note that the supporting text to LP Policy HG10 acknowledges that an annexe may contain all the facilities essential for independent residential occupation, it goes on to say that its physical form, other than in exceptional circumstances, should be an extension linked at each floor to the main dwelling. In my opinion the proposed mobile home should not therefore be regarded as an annexe and I concur with the Council's view that the proposal is tantamount to a new dwelling.
16. LP Policy HG7 deals with housing development in the countryside. It says that new residential development will not be permitted outside the confines of an existing village unless it constitutes one of a series of exceptions. In my opinion the proposal would not fall into any of the exception categories and would therefore fail to accord with Policy HG7.
17. Policy HP5 of the Kent and Medway Structure Plan 2006 (SP) also deals with housing development in the countryside and says that it will not be permitted unless it falls into certain categories. One of these, (c), is a single dwelling for farm forestry or other workers where a rural location at, or in the immediate vicinity of, a place of work is essential. The appellant argues that it is essential for her carer to live on site, and the proposal would therefore comply with Policy HP5(c). However, the supporting text in paragraph 7.35 makes it clear that the exception refers to farm, forestry or other essential **rural workers**

(my emphasis) and it is my opinion that the policy is intended to cater for workers in those occupations which by their very nature, rather than circumstance, need to be located in the countryside.

18. It is therefore my view that the proposed mobile home would be harmful to the objectives of local and national policies designed to protect the countryside. In particular, it would be contrary to LP Policy HG7 and SP Policy HP5 as well as to Core Strategy Policy CS1 which, amongst other matters, seeks protection for the countryside from the adverse impacts of growth.
19. The appellant has presented evidence of her receipt of a disability living allowance and has also presented a letter from Kent County Council Adult Social Services in support of her application. The Council does not dispute the appellant's disability and neither do I. I understand that the appellant requires help with her personal care, particularly in the early mornings prior to leaving for work, and that this care is difficult to obtain through agencies.
20. The appellant emphasises the need for 'round the clock' supervision. However, I note that since the retirement of the appellant's mother from her caring role the appellant has managed with some limited external care. I also note that the appellant still travels to work and I am conscious that, in any event, the appellant is not the sole occupant of the main dwelling. I accept that the appellant finds the existing situation less than ideal. However, it has pertained for some time and it would suggest that 'round the clock care', whilst desirable from the appellant's perspective, is not essential.
21. I have also been made aware that the existing building on site referred to as the Annexe continues to be occupied by the appellant's mother despite her no longer taking the role of carer. As noted previously there is no lawful use of this building as an independent dwelling unit. Even were it, as a detached building, to fall into the exceptional circumstances envisaged by LP Policy HG10, the supporting text makes it clear that providing annexe accommodation for relatives or others who have no special needs, apart from a wish to live close by the occupants of the main dwelling, will not be acceptable. Whilst I understand that the appellant's mother ceased her caring role due to ill health, in this case it is clearly the appellant who is primarily in need of assistance. However, the appellant does not appear to have sought permission for use of the Annexe building as accommodation for her carer.
22. I am sympathetic to the appellant's situation. Nevertheless, I must determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Taking account of all the matters above, it is my view that the appellant's personal circumstances are not sufficient to outweigh the harm I have identified.
23. Therefore, and having had regard to all other matters before me, I conclude that the appeal should fail.

Lloyd Rodgers

Inspector

APPEARANCES

FOR THE APPELLANT:

Mrs J Barker	Frith Field, Aldington Frith, Ashford, Kent TN25 7HH
Mr T Barker	3 Seascape, Gough Road, Sandgate, CT20 3BF

FOR THE LOCAL PLANNING AUTHORITY:

Mrs B Fazzani MRTPI	Senior Planning Officer, Ashford Borough Council
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DOCUMENTS

- 1 Council's notification of the hearing. Submitted by Mrs Fazzani.
- 2 Copy of photograph headed '1st photo'. Submitted by Mrs Fazzani.
- 3 Copy of photograph headed '2nd photo'. Submitted by Mrs Fazzani.
- 4 Ashford Borough Local Plan 2000. SoS Direction in respect of saved policies. Submitted by Mrs Fazzani.
- 5 Ashford Borough Local Plan 2000. Saved policies – Core Strategy Update. Submitted by Mrs Fazzani.
- 6 Copy of policies from Ashford Borough Local Plan 2000. Submitted by Mrs Fazzani.
- 7 Extract of Kent and Medway Structure Plan 2006. Submitted by Mrs Fazzani.
- 8 Extract from Ashford Borough Council Core Strategy submission document November 2006. Submitted by Mrs Fazzani.
- 9 Council's notification of the appeal. Submitted by Mrs Fazzani.
- 10 Brochure details of the 'IRM Diamond'. Submitted by Mrs Fazzani.