

Application Number	18/00362/AS
Location	Venruth, Redbrook Street, Woodchurch, Ashford, TN26 3QU
Grid Reference	92158 / 36928
Parish Council	High Halden
Ward	Weald Central
Application Description Applicant	Variation of condition 04 of planning permission 15/00223/AS to allow for a larger caravan on site Mrs Linda Lee
Site Area	0.28 hectares

(a) 8/8R (b) High Halden - R (c) KCCE – X, WT R

Introduction

1. This application is reported to the Planning Committee at the request of the local Ward Member, Cllr Pickering.

Site and Surroundings

2. Redbrook Street is a rural lane that lead to a crossroads to the north known as Cuckhold's Corner. There are sporadic residential and agricultural buildings along the road. The site is located in countryside to the east of the village of High Halden, within the Biddenden and High Halden Farmlands Low Weald Landscape Character Area.
3. The site is part of a larger land holding on the eastern side of Redbrook Street. The site access is to the southern end and the driveway leads to a hardstanding area at the rear of the site. There is a single storey 2 bedroom dwelling set back from the road, two outbuildings and one touring caravan on the land. To the rear of the brick built outbuilding/stable is a concrete slab which was previously used for the siting of a caravan, which has since been removed to comply with the requirements of an Enforcement Notice. The land is generally flat in contour and there are trees and hedges along the site boundaries. The trees to the north and west are subject to a Tree Preservation Order (TPO) and the Brookwood ancient woodland and the entire site is a known and potential archaeological site.

4. To the south east is the dwelling Badgers Oak and there are a number of other dwellings in a sporadic arrangement along Redbrook Street.

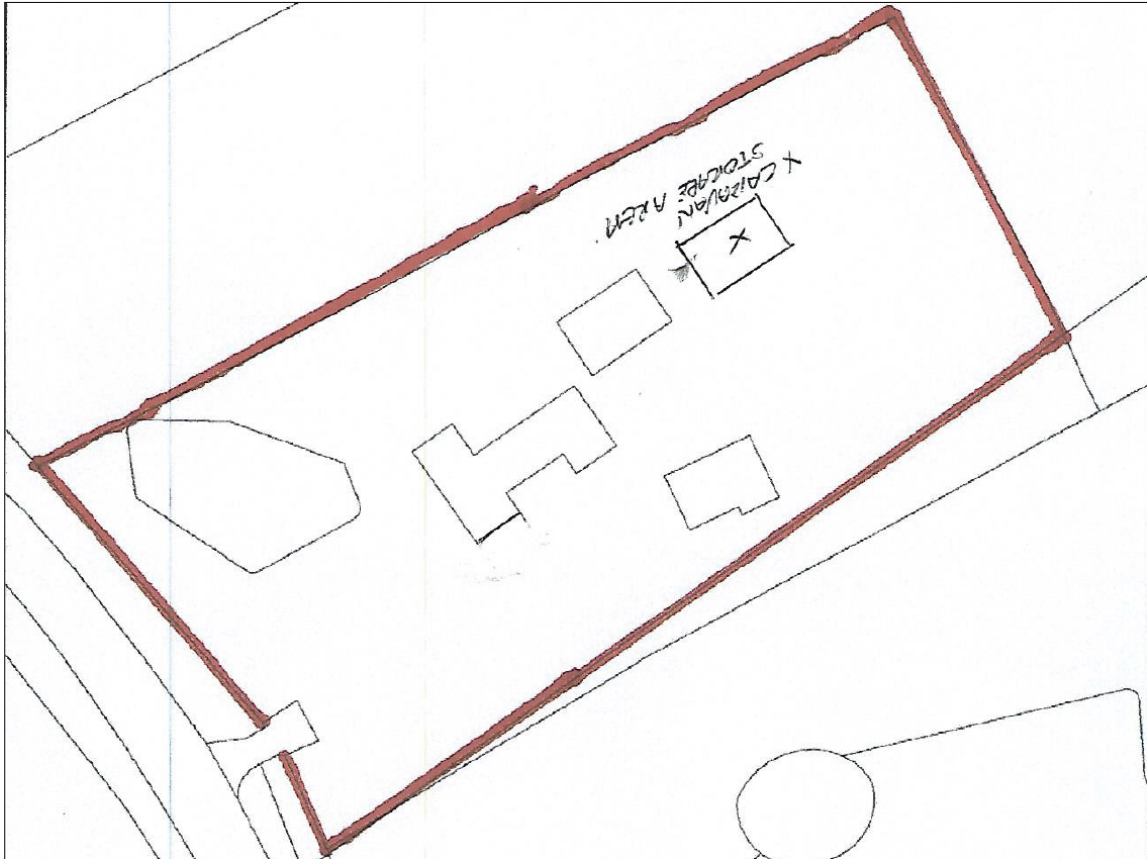


Figure 1: Existing block plan

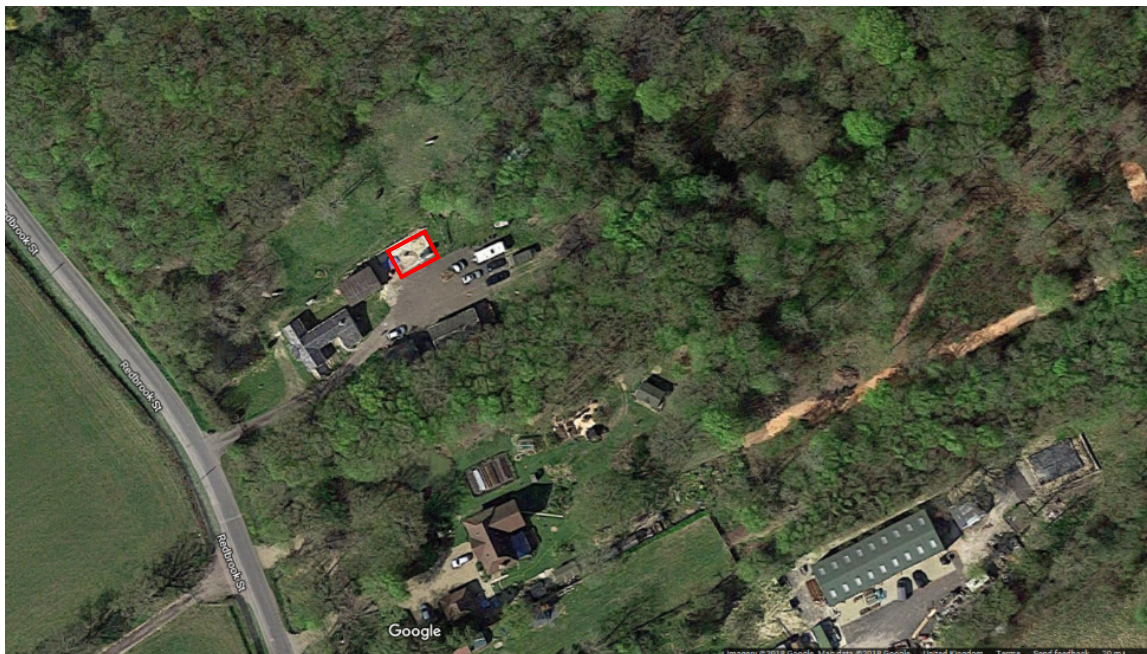


Figure 2: Aerial photo

Proposal

5. When planning permission was granted for the reinstatement of the dwelling on the site under application 15/00223/AS, conditions to restrict the stationing of caravans (as opposed to a touring caravan) on the land were applied due to the planning enforcement history.

6. The applicant has applied to vary condition 4 of planning permission which states:

“No more than one road legal touring, non-static caravan of a maximum size as defined in the Road Vehicles (Construction and Use) Regulations 1986 (or any regulations revoking and re-enacting those Regulations with or without modification), shall be stationed on the site at any time. No such caravan can be stationed on the site until details of its dimensions and proposed position on the site have been submitted to and approved in writing by the Local Planning Authority. The touring caravan shall thereafter be of the approved size and stationed in the approved position unless otherwise agreed in writing by the Local Planning Authority. The touring caravan shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Venruth, Redbrook Street, Woodchurch, Kent, TN26 3QU.

Reason: *In light of the historic breaches of planning control on the site in the interests of visual and residential amenity.”*

7. Condition 5 is also relevant:

“No other caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

Reason: *In light of the historic breaches of planning control on the site in the interests of visual and residential amenity.”*

8. The applicant wishes to vary condition 04 to allow for the stationing of a single unit mobile home on the existing concrete slab to be used for purposes ancillary to the main dwelling. It has been confirmed that the existing touring caravan would be removed so that there would be no increase in caravans on the land. The mobile home would be occupied by the applicant's family when visiting. A new mobile home is required as the current touring caravan is no longer suitable for the needs of the family in that there is no privacy for when the grandchildren want to stay as there are no partitions in the touring caravan.
9. This is not a gypsy and traveller site.

Planning History

EN/13/00032	Without planning permission, the material change of use of the Land to the stationing of caravans for residential use and the construction of concrete bases to facilitate that change of use Enforcement Notice complied with in the main save for the concrete base which was not considered to be expedient to pursue its removal. File closed.	ENFORCEMENT NOTICE APPEAL DISMISSED	28/03/2013 11/11/2013
15/00223/AS	Reinstate use of building as a dwelling house, extensions and associated physical works	GRANTED	06/07/2015

10. A residential dwelling has existed on Venruth since the 1920s and was vacated in 2000. The bungalow was in a state of disrepair so was used by the applicant as ancillary storage and utility purposes whilst they lived on the site in a mobile home as their primary accommodation from July 2001. In the appeal decision for the Enforcement Notice EN/13/00032, the Inspector was satisfied that to 2006 the stationing of the caravans was lawful, as the caravans were being used as accommodation whilst works and repairs to the existing bungalow were taking place.
11. No further works were being carried out on the existing bungalow from 2007 and when the third mobile home was brought onto the land the Council served the Enforcement Notice. The appeal was dismissed and the notice upheld and corrected.
12. During 2014 the applicant commenced repairs to the existing dwelling and on this basis the Council informally allowed a greater time to comply with the compliance period of the notice, which was varied to 12 months. The applicants then moved into the dwelling.
13. The existing concrete base was laid as a hard surface to station a caravan and can be seen on aerial photographs (minus the caravan) from April 2015, following the removal of the mobile home that was placed on this base. The notice required the removal of the concrete base as it was considered to be part of the breach of planning control as follows:

“3) Remove from the Land all concrete bases and remove from the Land all building materials and rubble arising from compliance with this requirement.”



Figure 3: Photo of existing concrete slab

14. Planning permission under 15/00223/AS enabled the re-use of the abandoned residential dwelling. The base has not been removed and was within the residential curtilage and any further hardstanding would be permitted development under Class F, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As the base would not need planning permission following the reinstatement of the dwelling house, the Council agreed that it would not be expedient to require its removal, as it could otherwise be replaced subsequent to its removal.

Consultations

Ward Members: The Ward Member is not a member of the Planning Committee.

High Halden Parish Council: object due to the visual impact on the area

KCC Ecology: has made the following comments:

- would not result in the reduction of the ancient woodland
- current development site includes various structures up to the boundary of the ancient woodland and the siting of the caravan appears to currently be hard standing
- siting of the caravan in the proposed location is unlikely to have any additional detrimental impacts

Woodland Trust: object and have raised the following matters:

- proposed caravan would be sited within the 15m buffer advised by Natural England for ancient woodland
- advise alternative location outside the 15m buffer zone to protect the ancient woodland and its wildlife from the indirect impacts of noise and light pollution

Kent Wildlife Trust: have no comments to make.

Redbrook Street Neighbourhood Residents Group: object and have made the following comments:

- harm to the character of the area
- no need for the development
- subject of enforcement notice to remove hardstanding and not have caravans on the land

[HDM&SS comment: the removal of the hardstanding was not expedient following the reinstatement of the dwellinghouse use and the use of the caravans has been managed by condition.]

- intensification of use

Neighbours: 8 neighbours were initially consulted and 8 representations to object were received.

The objections are summarised below:

- harm to the character of the area
- no need for the development
- subject of enforcement notice to remove hardstanding and not have caravans on the land
- harm to wildlife
- risk to trees
- intensification of use
- harm to neighbour amenity

- risk to highway safety
- set a precedent
- recreational pressure on ancient woodland
- no ecological assessment

[HDM&SS: the mobile home would be on previously developed land and adjoining maintained land so there is a low risk to habitats]

- enable self-contained residential accommodation
- lack of information

1 comment received in support making the following comments:

- entitled to enjoy their property and land
- similar development in the area

Planning Policy

15. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013, the Wye Neighbourhood Plan 2015-30 and the Pluckley Neighbourhood Plan 2016-30. The new Ashford Local Plan to 2030 is now undergoing examination and as such its policies should now be afforded some weight, in accordance with paragraph 216 of the NPPF.

Ashford Borough Local Plan 2000

GP12 - Protecting the countryside and Managing change

EN27 - Landscape conservation

EN31 - Important habitats

EN32 – Important trees and woodland

Local Development Framework Core Strategy 2008

CS1 - Guiding Principles

CS9 - Design Quality

CS11 - Biodiversity and Geological Conservation

Tenterden & Rural Sites DPD 2010

TRS17 - Landscape character and design

TRS18 – Important rural features

16. The following are also material to the determination of the application:-

Ashford Local Plan 2030 (submission version December 2017)

SP1 - Strategic Objectives

SP6 - Promoting High Quality Design

HOU15 – Development of Residential Gardens

TRA3a - Parking Standards for Residential Development

ENV1 - Biodiversity

ENV3a - Landscape Character and Design

ENV4 - Light pollution and promoting dark skies

ENV5 - Protecting important rural features

Town and Country Planning (General Permitted Development) (England)
Order 2015 (as amended) (GPDO)

Supplementary Planning Guidance/Documents

Residential Parking and Design Guidance SPD 2010

Landscape Character SPD 2011

Dark Skies SPD 2014

Government Advice

National Planning Policy Framework 2012

Planning Policy Guidance

Consultation draft revised National Planning Policy Framework 2018

17. Members should note that the determination must be made in accordance with the statutory Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF effectively provides that less weight should be given to the policies above if they are inconsistent with the NPPF (para. 215). The following sections of the NPPF are relevant to this application.

Relevant sections:

- Core planning principles
- Chapter 4 - Promoting sustainable transport
- Chapter 6 - Delivering a wide choice of high quality homes
- Chapter 7 - Requiring good design
- Chapter 11 - Conserving and enhancing the natural environment

Assessment

18. The main issues for consideration are:
- (a) The principle of the development
 - (b) Whether the proposed changes are acceptable when assessed against Section 73 of the Town & Country Planning Act 1990
 - (c) Impact on visual amenity
 - (d) Impact on residential amenity
 - (e) Impact on highway safety
 - (f) Impact on biodiversity ecology

Principle of the development

19. The application site is in residential use and the hardstanding area where the proposed single mobile home is within the residential curtilage of the dwelling.

20. It is acceptable to station a caravan within your residential curtilage provided that its measurements meet those found in the Caravans Sites and Control of Development Act 1960 and it is used solely for purposes ancillary to the main dwelling. This would not represent development as per Section 55 of the Town & Country Planning Act 1990 as a material change of use would not have occurred.
21. The imposition of both conditions 04 & 05 to planning permission 15/00223/AS for the redevelopment of the dwelling meant that the above development could not happen without the benefit of planning permission despite it being allowed by the provisions of the Town & Country Planning Act 1990.
22. Conditions 4 and 5 were imposed following the concerns raised by local residents about the previous unlawful development on the site to prevent the stationing of further mobile homes on the site whilst allowing a touring caravan. The reason for the condition made reference to the previous breaches of planning control on the site and to maintain visual and neighbour amenity.

Assessment against S73 TCPA 1990

23. Section 73 concerns the determination of applications to develop land without compliance with conditions previously attached.
24. Section 73 (2) states that on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted and -
 - if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly and
 - if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
25. The assessment below considers the acceptability of the proposed changes.
26. **Landscape character and visual impact**
27. Development Plan policies seek to ensure that new development should recognise the intrinsic character and beauty of the countryside.

28. The mobile home on the land, would be sited to the rear of the residential curtilage and therefore set back from the road and obscured by the footprint of the bungalow. The caravan would be a single unit and a replacement for the existing touring caravan so there would be no change in the number of caravans on the site. There would therefore be limited visual impact upon the surrounding area.
29. In turn, the caravan would be used as ancillary accommodation to the main dwelling. Any use would therefore be part and parcel of the existing residential use of the site and this can be controlled by way of a planning condition.
30. The application site is in a rural location and the appearance of the site as described above would continue to protect the landscape character area. Therefore, the development would comply with policies GP12, CS1 and TRS17 and emerging policy ENV3a.

Residential amenity

31. The nearest residential dwelling is Badgers Oak to the south east and Dalegarth to the northwest. Due to the separation distances and the nature of the development there would be no impact on residential amenity.
32. The application site has sufficient outdoor space and car parking to meet the requirements of the additional ancillary accommodation, so a satisfactory living environment would be provided.

Ecology and biodiversity

33. The NPPF directs that planning permission should be refused for development resulting in the loss or deterioration of this irreplaceable habitat, unless the need for and the benefits of the development clearly outweigh the loss.
34. KCC Ecology have been consulted and as the proposal would not result in the reduction of the ancient woodland, (despite being located within 15 metres of the ancient woodland boundary) (which is recommended to minimise impacts on Ancient Woodland in Natural England's Standing Advice for an appropriate buffer zone of semi-natural habitat between the development and the ancient woodland.) as the caravan would be on an existing hard standing then there would be no additional impacts on the ancient woodland.

Transport and highway safety

35. The development would be ancillary to the existing residential use of the site and would represent a net increase in residential occupation of one bedroom compared with the existing touring caravan. Therefore there would be no substantial increase in vehicle movements and car parking above the existing situation.

Personal circumstances

36. The applicant has explained that they need the accommodation to allow their large family to visit and so females and males do not have to share bedrooms. The existing bungalow has two bedrooms which are in constant use and the touring caravan is not satisfactory for these purposes
37. In any case the need for ancillary accommodation is not an unusual situation for many large families that do not have enough bedrooms in smaller homes and as previously advised it does not represent development provided that the mobile home is used for ancillary accommodation to serve the main dwelling. This in itself would not be a reason to refuse this application.
38. Whilst it is considered that there is no planning harm to warrant a refusal of permission to vary condition 04 it is my view that any further mobile caravans stationed on the site for residential purposes, albeit for ancillary purposes, would be excessive and might have implications in relation to visual and residential amenity. It is for this reason that a condition should be imposed to prevent any further caravans on the site.

Human Rights Issues

39. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

40. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

41. This application is only necessary due to the imposition of condition 04 on permission ref: 15/00223/AS that prevents anything other than a touring caravan being stationed on the land. If this had not been the case then the applicant could station a caravan in the residential curtilage of the dwelling for purposes ancillary to the use of the main dwelling without the need for planning permission as the development would not represent a material change in the use of the land.
42. The site is in the Biddenden and High Halden Farmlands Low Weald Landscape Character Area and given that the development would be replacing an existing touring caravan together with the screening to the site then the visual impact of the mobile home would be minimal on the local landscape character. As the proposal would not result in a net gain of caravans on the site, it would comply with the Development Plan, and would continue to protect the landscape character; complying with policies GP12, CS1, TRS17 and the NPPF and emerging policy ENV3a.
43. There would be no harm to residential amenity or highway safety. In turn, the site is also adjacent to an Ancient Woodland and the siting of the mobile home would not have a direct impact on the woodland and the increase in residential activity would have a limited, non-direct impact on the buffer zone which is maintained grass. The proposal to allow a replacement caravan on the site would be acceptable.
44. Whilst I can sympathise with the local residents given the planning history of the site where there have been previous breaches of planning control that have since been remedied by way of the pursuit of successful enforcement action by the Council, this is not a reason to refuse permission to site a mobile home on the land that would be for ancillary purposes to the main dwelling only. The previous breach of planning control related to a new residential use on the land. Given the above then the variation of condition 04 would not result in any material harm that would warrant refusal, subject to the imposition of appropriate conditions to ensure that no further caravans could be brought onto the site.

Recommendation

Approve

on the following grounds:

- 1 The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

- 2 The existing parking provision shall be retained for ancillary parking of motor vehicles and access to the facility shall not be precluded.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users.

- 3 No commercial activities shall take place on the land, including the storage of materials, and no vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: To enable the Local Planning Authority to regulate and control the development of land and to protect the visual amenities of the locality.

- 4 No more than one single unit, two bedroom mobile home shall be stationed on the site at any time measuring 36 feet by 12 feet or 11 metres by 3.65 metres. The static caravan shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Venruth, Redbrook Street, Woodchurch, Kent, TN26 3QU.

Reason: In light of the historic breaches of planning control on the site in the interests of visual and residential amenity.

- 5 No other caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

Reason: In light of the historic breaches of planning control on the site in the interests of visual and residential amenity.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no development shall be carried out within Classes A-E of Part 1 and Class A of Part 2 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality.

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- the applicant/agent was updated of any issues after the initial site visit;
- was provided with pre-application advice;
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 18/00362/AS.

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Annex 1

