

Application No: 12/3481M

Location: EASTWOOD CARAVAN PARK, SCHOOLFOLD LANE, ADLINGTON, MACCLESFIELD, CHESHIRE, SK10 4PL

Proposal: Removal of conditions 1 and 2 of planning consent 5/5/O.8863 to allow 12 month holiday season

Applicant: Lisa Firbank

Expiry Date: 04-Nov-2012

SUMMARY RECOMMENDATION:

Approve subject to conditions

MAIN ISSUES:

Whether the removal of conditions 1 and 2 would lead to permanent residential occupation of the caravans.

REASON FOR REFERRAL

Members will recall that this application was put before the Committee at the previous meeting on 7th November 2012. The resolution to approve the application was subject to the three conditions recommended by the case officer with an additional condition for an independent management company to be set up to monitor the occupation of the caravans.

It is considered that, following further legal opinion, such a condition would not meet the tests of Circular 11/95 (Use of Conditions in Planning Permission). This condition can therefore not be applied to a planning permission and the item is being brought back before members to reconsider.

The six tests for validity of conditions are that they should be:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

The fourth condition requested by members is not *necessary* as it would repeat the provisions of the standard condition requiring an up-to-date register to be maintained by the owners/operators, which has proven by planning Inspectors to meet all the tests and be sufficient to prevent permanent residential occupation.

The condition would also fail to meet the test of reasonableness. Requiring an independent management company to be set up to maintain and monitor a register goes well beyond what can reasonably be controlled by planning condition. Requiring an independent management company to be set up for this purpose is also not enforceable and is not relevant to planning.

The Committee is therefore asked to reconsider the application in knowledge of this, particularly bearing in mind that the objectives of the condition to enable the monitoring and enforcement of an up to date register, are achievable through the model condition used by Planning Inspectors which forms part of this recommendation below.

ADDITIONAL INFORMATION:

The applicant has provided additional information to clarify to members how the site is operated and controlled by both the site owner and the Council. All caravan owners are required to enter into a holiday licence agreement with the site owner. They are also required to sign a conditions of hire agreement. Both these agreements are required to be entered into on a yearly basis at this park and copies have been provided.

The agreements clearly state that the caravans should be for holiday use only, not to be used for sole or private residence, and that a business may not be operated from them. The park operator also requires the caravan owners to provide a copy of their current caravan insurance which contains their main home address.

DESCRIPTION OF SITE AND CONTEXT

The application relates to an existing caravan park of approximately 2.69 hectares. It consists of 72 static holiday caravans and 3 touring pitches. The site is located to the south east of Poynton in an isolated countryside location adjacent to the Macclesfield Canal. Access is from Schoolfold Lane which connects to Wood Lane South/Pedley Hill.

The site is within the North Cheshire Green Belt and Peak Park Fringe Area of Special County Value (ASCV). A public footpath runs through the site and connects to the wider network. The site is adjacent to the Macclesfield Canal Conservation Area.

DETAILS OF PROPOSAL

This application seeks to remove conditions 1 and 2 attached to permission 5/5/08863 approved 9th April 1968. This is the original consent for the caravan park. The conditions read:

- 1. This permission shall not authorise the use of the land as a site for caravans except during the period 1st March to 31st October each year, and such use shall not supersede the normal use of the land for agricultural purposes.*
- 2. No caravan shall be occupied for human habitation except during the period 1st March to 31st October in each year.*

The effect of removing such conditions would be to allow the site to operate 12 months/365 days of a year.

It should be noted that consent was granted in 2008 for variation to condition 2 above, altering the period of occupancy to 1st March to 15th January in any given year. Two additional conditions were attached to that permission:

1. *The caravans (or cabins/chalets) are to be occupied for holiday purposes only.*
2. *The caravans (or cabins/chalets) shall not be occupied as a person's sole, or main place of residence.*

RELEVANT HISTORY

- 09/2155M Extension to caravan park to include adjoining camp site to provide an additional 25 caravans
REFUSED 10th September 2009
- 09/0514M Extension to caravan park to include adjoining camp site to provide an additional 25 caravans
WITHDRAWN 9th June 2009
- 08/0656P Variation of condition 2 on application 5/5/8863 to change the annual period of use from existing of 1st March to 31st October to proposed of 1st March to 15th January the following year
APPROVED 1st July 2008
- 5/13920P 25 Caravans and 42 car parking spaces
REFUSED 6th July 1978
- 5/5/8863 Outline application for extension to recreational caravan park and erection of toilet block and car park
APPROVED 9th April 1968

POLICIES

Regional Spatial Strategy

- DP1 (Spatial Principles)
- DP4 (Make the Best Use of Existing Resources and Infrastructure)
- DP5 (Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility)
- DP8 (Mainstream Rural Issues)
- RDF2 (Rural Areas)
- RDF4 (Green Belts)
- W7 (Principles for Tourism Development)

Local Plan Policy

- NE1 (Areas of Special County Value)

- RT13 (Tourist Facilities)
- DC6 (Circulation and Access)

Other Material Considerations

- National Planning Policy Framework
- Good Practice Guide on Planning for Tourism, *Department for Communities and Local Government*

CONSULTATIONS (External to Planning)

Strategic Highways Manager

The Highways Manager has commented that allowing an additional 6 week period would not cause additional traffic problems. It has been noted however that the site should not generate further movements associated with permanent residential occupation and therefore subject to conditions to prevent this, no highways objections.

Canal and River Trust

No comments to make.

VIEWS OF THE PARISH COUNCIL:

Adlington Parish Council object to the proposal on the basis of lack of demand for year-round holiday accommodation and are concerned that the accommodation will be used for non-holiday use for permanent residential occupation. Additionally it was pointed out the access road is unsuitable for higher volumes of traffic.

OTHER REPRESENTATIONS:

A number of objections have been received from the occupiers of 4 nearby residential properties. The main points raised are:

- The site is used for residential occupation contrary to existing conditions;
- Removing the conditions would leave no safeguard against permanent residential occupation;
- There is no evidence of demand for holidays in this location during December and January'
- The lane is not suitable for permanent traffic. As an unadopted road it can be hazardous in winter conditions. It is unlit and the Council are not obliged to grit it.

APPLICANT'S SUPPORTING INFORMATION:

A supporting statement has been submitted on behalf of the applicant outlining the policy background, site circumstances, planning history and justification. Two recent appeal decisions have also been submitted relating specifically to the matter of a seasonal occupancy condition.

A letter on behalf of the applicant has been submitted in response to the letters of objections received from local residents and the Parish Council. It states that the application seeks to reflect trends in the leisure market. It also refutes the claim the site is occupied for non holiday purposes.

OFFICER APPRAISAL

Principle of Development

The use of the site as a caravan park has already been established. The existing permission restricts the use by way of a set of conditions so as to prevent it being used for permanent residential occupation and/or as person's sole or main residence. This key consideration in the assessment of this application is whether by removing the conditions it would lead to permanent residential occupation or whether this could be controlled by other means.

Potential for permanent residential accommodation

Due to its countryside location, there is a fundamental national and local policy objection to an unrestricted residential use of the site. However, it should be noted that this proposal does not seek a permanent and unrestricted residential use, and the applicant proposes the attachment of the model conditions in Good Practice Guide on Planning for Tourism relating to the occupancy of the caravans for holiday purposes only, no occupancy as a person's sole or main residence, and maintenance of an up-to-date register.

The conditions that the applicant is seeking to remove currently restrict the occupancy of the caravans to a period between 1st March and 31st October in any given year. This was varied by the 2008 permission to a period between 1st March and 15th January, in effect imposing a 6 week closed season, to which the park currently operates. This type of condition is referred to as a seasonal occupancy condition, as opposed to holiday occupancy conditions that restrict the use of the units to holiday purposes only. Seasonal occupancy conditions were first considered necessary to reflect public health considerations given the capability of accommodation to protect occupants from winter conditions. Over the years the quality of accommodation has improved considerably and there has been a trend towards more diverse holidays in duration, location and season.

Circular 11/95: Use of Conditions in Planning Permission advises that a holiday occupancy condition is more appropriate than a seasonal occupancy condition in circumstances where holiday accommodation is acceptable, but where the provision of permanent housing would be contrary to planning policies relating to development in the countryside, as is the case with this current application. Paragraph 115 of Circular 11/95 states that seasonal occupancy conditions may be appropriate to *"prevent the permanent residential use of holiday chalets which by the character of its construction or design is unsuitable for continuous occupation."*

The Circular maintains that seasonal occupancy conditions may also be appropriate to protect the local environment, such as fragile habitats required to allow seasonal breeding or winter feeding. Such environmental circumstances do not exist in this case.

The Good Practice Guide on Planning for Tourism provides further, and more up to date, advice on seasonal and holiday occupancy conditions. Paragraph 3 of Annex B to the Good Practice Guide states that the aim of holiday occupancy conditions is *"generally to ensure that the premises are used by visitors and do not become part of the local housing stock"*. Reference to seasonal occupancy conditions is made in terms of them protecting the local environment, as in Circular 11/95. Protection of important species of bird during its breeding season or when it is winter feeding, is cited as an example of when such a condition may be used.

The reason for the conditions imposing a closed season at Eastwood Caravan Park relate to prevention of residential occupation of the units. The Good Practice Guide is clear that this can be achieved by the relevant holiday occupancy conditions and seasonal occupancy conditions should be used to safeguard the environment. It is not considered there are any specific circumstances on this site that warrant additional protection by way of enforcing a closed season, and the nature of the accommodation is what would be expected of a caravan park and therefore not of a specific nature that would easily convert to residential accommodation and therefore require additional protection.

The appeal decision submitted on behalf of the applicant support the view that seasonal occupancy conditions should not be used to control residential occupation. In appeal ref: APP/E2340/A/10/2137243 the Inspector noted that such a condition would in fact not prevent the site being used as someone's permanent residence for most of the year (in that case 11 months), provided they have a four week holiday in the closed season.

In the second appeal (ref: APP/C9499/A/09/2117805) the Inspector concluded that such a condition was unduly restrictive in an era of changed holiday trends. In both cases the standard holiday occupancy conditions as suggested in the Good Practice Guide on Planning for Tourism were sufficient and an appropriate and enforceable means of restricting occupation.

Objections regarding lack of specific evidence of demand at this site for accommodation in the current closed period are noted, however, there is nothing in policy that requires this. The Good Practice Guide states that the nature of holidays in this country is becoming increasingly diverse in location, season and duration and 12 month occupancies are becoming more common to reflect this trend.

Whilst it is accepted there is local concern that the caravan park is already been partially used for non-holiday residential use, to date insufficient evidence of this has been provided to warrant enforcement action. This in itself should not be the determining factor given that conditions could be imposed to control the occupancy of the units and any breach of this could be dealt with under enforcement powers.

Highways

Objections have been raised regarding the suitability of Schoolfold Lane to take the additional traffic. Schoolfold Lane is a narrow lane, with little opportunity for passing. Furthermore there is no street lighting which does not help in providing safe access to the site during winter months.

Whilst it is clear that Schoolfold Lane is not suitable for such traffic and would unlikely be considered acceptable under today's policies, this caravan park has been established for over 40 years and therefore the appropriateness of this site as a caravan park cannot be questioned. The key consideration is, whether by removing these conditions, which would allow the site operate for an additional 6 weeks, it would it would lead to any significant impact on highway safety. It is likely that visitor numbers at this time of year would be low, much lower than the summer months and given the site already operates in winter months it is highly unlikely to lead to any significant highway safety impact. As discussed above conditions can be attached to ensure holiday occupation only and therefore the levels of traffic associated with permanent residential units would not be generated.

CONCLUSIONS

Sufficient controls are available by way of planning conditions to ensure that the holiday occupancy of the caravans is maintained even where occupation takes place throughout the year. As such, it is considered the proposal to remove conditions 1 and 2 of 5/5/08863 is acceptable subject to the imposition of holiday occupancy conditions as set out in the Good Practice Guide on Planning for Tourism. Accordingly, a recommendation of approval is made.

RECOMMENDATION: Approve subject to following conditions

1. Caravans occupied for holiday purposes only
2. Caravan's not occupied as a person's sole or main residence
3. Owners/operators shall maintain an up-to-date register of the names and main home address of all owners/occupiers of individual caravans.

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