

Application No: 13/2611M

Location: Rode Heath Wood, Back Lane, Eaton, Congleton, CW12 2NL

Proposal: Removal of Condition 12 of Approved Application 06/2254P to Allow Siting of 32 Timber Clad Twin Unit Caravans, Access Work and Landscaping.

Applicant: D Noad

Expiry Date: 18-Sep-2013

**Date Report Prepared:** 06 September 2013

#### **SUMMARY RECOMMENDATION**

Refuse

#### **MAIN ISSUES**

- Whether condition 12 on appeal reference APP/C0630/A/07/2033939 is necessary and reasonable.

#### **REASON FOR REPORT**

The application site has an area of over 1 hectare, and as such is a major application that should be determined by the Committee.

#### **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a caravan site that is currently being developed within existing woodland. At present there are 9 occupied caravans on the site. A total of 55 have been approved across this and the adjacent site. The site is located within Countryside Beyond the Green Belt as identified in the Macclesfield Borough Local Plan.

#### **DETAILS OF PROPOSAL**

This application seeks to remove condition 12 from appeal reference APP/C0630/A/07/2033939 to allow all year round occupation of the caravans.

Condition 12 states, "*No caravan shall be occupied between 14<sup>th</sup> January and 1<sup>st</sup> March in any year*".

An accompanying application 13/2654M appears elsewhere on the agenda, which seeks to remove the same condition from appeal references APP/R0660/A/10/2121609 and APP/R0660/A/10/2121614 that relate to the extended part of the site.

## **RELEVANT HISTORY**

10/3803M – Remove condition 12 on planning permission 06/2254P (appeal reference APP/C0630/A/07/20339390) – Refused 24.12.2010

10/4083M – Variation of conditions 9, 10, 12 relating to 06/2254P (appeal decision APP/C0630/A/07/2033939). The purpose of this application is to ensure one of the units can be occupied full time by a manager including during the closed season – This received a resolution of approval by the Northern Planning Committee in January 2011, however the required s106 remains unsigned, and therefore a decision has not been issued.

09/3544M - Change of use of land to allow the siting of 23 timber clad twin unit caravans – Not determined, Appeal allowed 12.07.2010 (Costs awarded against the Council)

09/1509M – Change of use of land to allow the siting of 23 timber clad twin unit caravans - Refused 14.08.2009, Appeal allowed 12.07.2010 (Costs awarded against the Council)

08/2729P - Creation of temporary access (in location of existing field access) to allow delivery of static caravans, and erection of boundary fence and gates - Approved with conditions 26/03/09

08/2291P - Variation of conditions 5 (lighting), 7 (ecology) and 21 (drainage) on application 06/2254P (pre-commencement conditions) to allow works to commence on the internal road only, in accordance with the badger licence granted by Natural England - Withdrawn 18.11.2008

06/2254P - Change of use of land to site 32 timber-clad twin-unit caravans, alterations to access and landscaping - Refused 06.11.2006, Appeal allowed 03.12.2007 (Costs awarded against the Council)

## **POLICIES**

### **Local Plan Policy**

RT13 - New Tourist Attractions

GC5 - Countryside Beyond the Green Belt

### **Other material considerations**

- Good Practice Guide for Tourism
- National Planning Policy Framework
- Circular 11/95 Use of Conditions in Planning Permission

## **CONSULTATIONS (External to Planning)**

Environmental Health – Recommend that some controls are put in place to ensure that the site does not become residential site over time.

North Rode Parish Council – The Parish Council objects strongly and believe that the caravan park will be occupied on a permanent basis rather than occasional holiday occupation. The Parish Council found no convincing evidence put forward by the agent to the application to

convince us that the units will not be lived in all year round as permanent residential units. The Parish Council draws the attention of the Planning Department to the North Rode Parish Plan as part of their objections.

Eaton Parish Council – Whilst we feel that the additional six weeks opening will make little difference to the village, it is felt strongly that to lift what was a condition imposed by the Inspector at the time of the original application does make a mockery of the planning rules. Whilst we have no specific objections to the lifting of the clause we would expect that granting of this should be subject to the applicant making positive statements regarding the other conditions imposed by the Inspector which should have been met prior to any occupation - eight units are now occupied - and to date are still outstanding, e.g. passing places, bus stop as a condition of granting the year round occupation.

Jodrell Bank – No comments to make

Public Rights of Way - The development does not appear to affect a public right of way

Strategic Highways Manager - No objection to occupation during the winter months as traffic impact would not differ materially from that at other times of the year.

## **OTHER REPRESENTATIONS**

3 letters of representation have been received objecting to the proposal on the following grounds:

- No changes since approval to justify a different approach to the Inspector
- Will result in additional traffic and sewage
- Conditions attached to original permission have not been complied with
- Site should be fully occupied before any conditions are considered for removal.

It should also be noted a petition signed by 14 local residents has been submitted objecting to the accompanying application (13/2654M) on the following grounds:

- Removal of condition 12 would result in a residential site
- A holiday park is not a place to stay permanently
- Applicant has not fulfilled Inspector's conditions

## **APPLICANT'S SUPPORTING INFORMATION**

A supporting statement has been submitted on behalf of the applicant which concludes:

- Extending the holiday season would improve the quality of the existing holiday park without any adverse impact on the character of the surrounding area. It is therefore in accordance with Policies GC5, GC6 and RT13 of the Macclesfield Borough Local Plan, NPPF and GPGPT.
- There are clear socio-economic benefits of the proposal to extend the season which will be of direct benefit to the local economy through increased visitor spend.
- Imposing a closed period with no justification on environmental grounds is in direct contravention of national planning policy.

- It is evident from recent Appeal decisions that the Government consider additional restrictions over and above the model holiday occupancy conditions to be unnecessary and unjustified.
- Other planning authorities within the area are allowing year round holiday use. Imposing a closed period is therefore inconsistent with other rural holiday parks and disadvantages our client in the operation of his business, limiting customer demand and effectively driving the potential economic benefits away from the local economy into neighbouring districts. Approval of this application would be consistent with other recent approvals by Cheshire East Council, including Daneside Country Park and Eastwood End Caravan Park.
- Allowing the park to operate all year round will not have any adverse impact on the local amenity.
- The park is located in a sustainable location within close proximity of the public footpath network, railway station, bus services and local amenities. The site is therefore accessible from various modes of transport other than by car.

In addition, the applicants' agent has responded to the comments received in representation, which can be summarised as follows:

- Efforts are underway to regularise the non-compliance with planning conditions.
- Removal of the condition will not result in unrestricted residential use due to remaining conditions.
- 12 month holiday seasons are the norm.

## **OFFICER APPRAISAL**

### **Principle of Development**

The suitability of the site and the principle of the development have already been assessed by two Planning Inspectors against the policy framework outlined above, and both concluded that the site was appropriate for tourism purposes. In terms of the current application, it is necessary to examine whether there will be any significant harm to the objectives of relevant planning policy or other matters of public interest arising from the removal of the condition.

The existing permission for the change of use of land to allow the siting of 32 timber clad twin unit caravans, access and landscaping includes a set of conditions designed to prevent the caravans being occupied as a main place of residence. In addition to the condition that is the subject of this application, the appeal decision includes conditions:

- 9) *The caravans shall be occupied for holiday purposes only.*
- 10) *The caravans shall not be occupied as a person's sole or main place of residence.*
- 11) *The owners/operators of the site shall maintain an up to date register of the names of all owners/occupiers of individual caravans on the site and of their main home addresses and shall make this information available at all reasonable times to the local planning authority.*

### **Potential for permanent residential accommodation**

It is clear that a key concern with this application is that the removal of the condition would result in the use of the site 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, as conditions relating to the occupancy of the caravans for holiday purposes only will remain.

Within appeal decision letters in general, Inspectors do not provide specific reasons for each individual condition as the Council would when issuing a planning approval, rather they justify them in the body of their report/letter. In this case the Inspector noted, *"The Good Practice Guide includes a set of conditions designed to prevent holiday homes and caravans being occupied as a main or sole place of residence. These conditions together with a 'close season' are sufficient, in my view, to prevent the caravans being occupied as a main place of residence."*

The condition that is the subject of this application prevents occupation of the caravans between 14<sup>th</sup> January and 1<sup>st</sup> March in any year. Such conditions are commonly referred to as seasonal occupancy conditions, as opposed to holiday occupancy conditions that restrict the use of the units to holiday purposes only. 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."* In this case the caravans are of a standard that would allow for all year round use if required. 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.

In the Inspector's decision, the reason for the seasonal occupancy condition, in addition to the holiday occupancy conditions, is that when taken together, all the stated conditions are sufficient to prevent the caravans being occupied as a main place of residence.

The Lodges appear to provide a very high standard of accommodation, to the extent that they could lend themselves easily to use as permanent dwellings. The nature and character of the site is also something that is not typical to more traditional ideas of caravan parks / sites where you might expect to see swimming pools, play facilities for children etc. The units would also be all individually owned. In addition to this, there is the fact that the Inspector imposed the seasonal occupancy condition in 2007, and a second Inspector imposed the same condition to an extension of this site in July 2010. Both of these Inspectors had regard to the guidance within the Good Practice Guide on Planning for Tourism when coming to their decisions and imposing the conditions. This is one of the few documents that remain extant

since the publication of the Framework in 2012. As such there has not been any material change in the policy framework in this area since that time. These factors are specific to the application site, and therefore the key question is whether they are sufficient to justify the imposition of a seasonal occupancy condition in this case.

Members may also be aware of other similar caravan sites in the Borough where controlling the restriction on permanent residential accommodation of caravans has proven to be difficult. Whilst it is acknowledged that the ability of the Council to provide adequate resources to investigate and enforce against potential breaches should not influence the decision, each case must be assessed on its merits. An Inspector has examined the details of this site, and a second Inspector looked at similar details for the extended site and both came to the conclusion that a “close season” condition was necessary in this case, in addition to the holiday occupancy conditions listed in the Good Practice Guide.

Paragraph 3 of Annex B to The Good Practice Guide advises that Planning Authorities will need to frame conditions *“so that they can be readily enforced by the authority but in a way that is not unduly intrusive for either owners or occupants”*. In this case the “close season” relates to a 6 week period between 14 January and 1 March in any year. Such a limited break can be readily enforced and is not considered to be unreasonable for either owners or occupiers.

Circular 11/95: Use of Conditions in Planning Permission lists 6 tests that all conditions should satisfy. In brief these explain that conditions should be:

- i. Necessary;
- i. relevant to planning;
- ii. relevant to the development to be permitted;
- iii. enforceable;
- iv. precise; and
- v. reasonable in all other aspects

In this case, having regard to all of the above details, it is considered that the “close season” condition is necessary in addition to the holiday occupancy conditions. This combination of conditions is considered to provide the most effective and appropriate safeguard to ensuring that the caravans are not occupied as a main or sole place of residence. All other tests of the circular are considered to be met.

### **Other material planning considerations**

The proposed removal of the condition is not considered to have any significantly greater impact upon the character and appearance of the countryside, highway safety, residential amenity, or trees compared to the previous permission.

With regard to comments received in representation relating to previous conditions not yet being complied with, this matter is the subject of ongoing discussions with the applicant.

### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The original Inspector during the 2007 appeal and a second Inspector in 2010 on the extended part of the site both considered a “close season” condition to be necessary. These decisions were taken having regard to the Good Practice Guide on Planning for Tourism, and

Circular 11/95, which were both as relevant then as they are today. Having regard to the specific circumstances of this case, and the details outlined above, the close season and the holiday occupancy conditions are required together to ensure that the caravans are not occupied as a main or sole place of residence. Accordingly, a recommendation of refusal is made for the following reason:

1. The close season condition is required in conjunction with holiday occupancy conditions to prevent caravans being occupied as a main place of residence. In the absence of this condition the proposal would be contrary to policy GC5 of the Macclesfield Borough Local Plan 2004 and the National Planning Policy Framework.

#### Application for Variation of Condition

RECOMMENDATION: Refuse for the following reasons

1. Closed season condition required in conjunction with holiday occupancy conditions to prevent caravans being occupied as a main place of residence, contrary to policies controlling development in the countryside.

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