

Application No: 14/0408M

Location: Ladera, BACK LANE, EATON, CW12 2NL

Proposal: Change of use of land to site 23 timber-clad twin-unit caravans (resubmission of scheme allowed on Appeal under planning permission 09/3544M)

Applicant: Yvette Noad, Ladera Retreat

Expiry Date: 22-Apr-2014

**Date Report Prepared:** 27 March 2014

#### **SUMMARY RECOMMENDATION**

Approve, subject to the receipt of an updated protected species survey and subject to conditions.

#### **MAIN ISSUES**

- Principle of Development on the Site
- The Impact upon Landscape Character
- The Impact upon Trees of Amenity Value
- The Impact upon Highway Safety
- Design
- The impact upon the Amenity of Neighbouring Property

#### **REASON FOR REPORT**

The application is to be determined by the Northern Planning Committee under the terms of the Scheme of Delegation as the site area is between 1-2 ha.

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

The application site comprises 1.83 hectares of grassland adjacent to a semi-natural woodland, located approximately 2.5km north of Congleton. The site is roughly rectangular and lies between the residential property of Novar to the south (the applicant's residence), and Phase 1 of the approved caravan site – "Ladera". Two highways, Back Lane and Macclesfield Road, border the site.

The application site is currently used for the grazing of animals. The appeal decision allowed the siting of 23 timber clad twin unit caravans as an extension to the site of 32 currently under construction in the adjacent woodland. The site is located within Countryside Beyond the Green Belt as identified in the MBLP.

## **DETAILS OF PROPOSAL**

This application seeks full planning permission for the change of use of land to allow the siting of 23 static caravans as an extension to a previously approved caravan park (06/2254P), currently under construction. The two schemes together will result in a total of 55 caravans at the site. This is a resubmission of a scheme approved but which has expired - 09/3544M.

The 23 caravans would be positioned around a large central pond/pool and the perimeter of the site will be mounded and screened with mature landscaping.

The caravans will be twin units, single storey in height, with a pitched roof, clad in timber, in keeping with the caravans on the adjoining site. Each caravan will measure a maximum of 6.8 metres in width, 20m in length and have an internal ceiling height no greater than 3.05m. The static caravans fall within the statutory definition of a caravan under the Caravan Sites Act 1968, as amended by the Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of a Caravan) (Amendment) (England) Order 2006.

Reception, office facilities and a visitor car park are to be shared with the Phase 1 of the development – to the west of the site. An internal road would be provided within the site to give vehicular access to each unit – which would have one parking space. Access to the site will be gained via the existing access on Back Lane through the existing caravan park.

The scheme includes an enhanced landscaping scheme, including the mounding to the A536, additional boundary planting and additional internal planting. More details have also been submitted outlining the effectiveness of the proposed mitigation planting.

## **Planning History**

13/2654M Application to Remove Condition 3 of Previously Approved Application 09/3544M to Allow the Holiday Park to Operate All Year Round. Dismissed at appeal 25-Mar-2014

13/2611M Removal of Condition 12 of Approved Application 06/2254P to allow siting of 32 timber clad twin unit caravans, access work and landscaping. Dismissed at appeal 25-Mar-2014

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**

### **Macclesfield Borough Local Plan – Saved Policies**

NE11 Nature Conservation  
BE1 Design Guidance  
DC1 New Build  
DC3 Amenity  
DC6 Circulation and Access  
DC9 Tree Protection  
RT13 - New Tourist Attractions  
GC5 - Countryside Beyond the Green Belt

### **Cheshire East Local Plan Strategy – Submission Version**

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28<sup>th</sup> February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies are as follows:

MP1 – Presumption in Favour of Sustainable Development  
PG4 – Safeguarded Land  
PG5 – Open Countryside  
SD1 – Sustainable Development in Cheshire East  
SD2 – Sustainable Development Principles  
SE1 – Design  
SE3 – Biodiversity and Geodiversity  
SE4 – The Landscape  
SE5 – Trees, Hedgerow and Woodland  
CO1 – Sustainable Travel and Transport  
EG4 – Tourism

### **Other Material Considerations**

Ministerial Statement – Planning for Growth  
National Planning Policy Framework  
Planning Policy Practice Guidance

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

Environmental Health – recommends informative in respect of contaminated land and that chalets are 6m apart

Strategic Highways Manager – No objections but recommends conditions

Environment Agency – recommends a drainage condition

Manchester Airport – No objections

Jodrell Bank – No comments

### **VIEWS OF THE PARISH COUNCIL**

The Parish Council of North Rode strongly object to the above application.

The application is a renewal of a previous application that expired through effluxion of three years. If there had been the substantial demand as suggested by the proposal for holiday accommodation in the "back-woods" of North Rode then these lodges would have been built.

If the proposal receives permission it is most imperative that the "closed season" be instigated rigorously so as to prevent them becoming permanent dwellings. If they were to become

permanent residences they should pay council tax like everyone else. The present development has a Rateable Value of £3,000 for the whole site. At present there is rate relief of 100% below a RV of £6,000. On a personal note we have to pay Council Tax on our farmhouse of £2,438.33. This development pays NOTHING, thus they contribute NOTHING to the area.

A residential development is unsustainable under the terms of the National Planning Policy Framework. The caravans are being marketed as homes "down-sizing". The applicant is abusing the Planning Framework.

When looking at the submission paperwork they date back several years. The application is not submitted in accordance with the latest Policy Standards and should be refused.

The Parish Council of Eaton comments as follows:

As the applicant, in a period of some seven years has sold less than 50% of the original phase of 32 units despite aggressive and intensive advertising, employing agents and holding open weekends, we feel that this has proved a lack of demand for these lodges and we consider that renewing the permission for the additional 23 units should be refused until the full impact is shown on the original phase of units.

Within a half mile there is a development of a similar nature and therefore there is additional competition for even the first phase.

In addition, despite the passage of some seven years, the applicant has still not yet complied with the pre-occupation conditions laid down by the Planning Inspectorate at the time the original permission was given.

For the above reasons, we again feel that permission should be refused.

## **OTHER REPRESENTATIONS**

Letters of objection received from 3 properties raising the following issues:

- landscape and visual impact
- concerns regarding effectiveness of landscape mitigation
- concerns regarding temporary access
- concerns regarding historic non compliance with conditions
- TA needs redrafting to accord with NPPF and core strategy
- recommends a condition regarding transport improvements
- concerns regarding motives of applicant and precedent issues
- tourism benefits overstated
- concerns regarding need
- concerns regarding adherence to regulations
- concerns regarding full time occupancy
- requests submission of a construction management plan
- concerns regarding third point of access and safety of temporary access

- updated protected species surveys required
- tree survey needs updating
- no planning statement
- unsustainable location
- permission no longer extant

## **APPLICANT'S SUPPORTING INFORMATION**

The following documents have been submitted on behalf of the applicant:

### **Woodland Care Plan**

The report provides details of landscaping and maintenance/ management of this.

### **Tree Survey and Assessment**

The report assesses the quality and amenity value of existing vegetation and provide recommendations based on the impact of the scheme.

### **Ecological Appraisal**

No evidence of protected species and no mitigation required.

### **Landscape and Visual Impact Assessment**

Assesses the visual impact assessment from various vantage points

### **Transport Statement**

The report assesses the transport implications of the development and sets out details of mitigation.

## **OFFICER APPRAISAL**

### **Principle of Development**

The application site lies within the designated countryside beyond the Green Belt. In terms of principle, this is a resubmission of a scheme allowed at appeal in 2010. Whilst that application has lapsed and therefore does not constitute a fallback position, the assessment of the application would be identical unless there has been a material change in circumstances since that application was considered.

The site conditions since 2010 have not changed – the main changes relate to the publication of the NPPF, PPG and the emerging Local Plan.

However the Development Plan remains the starting point and therefore these policies remain the same.

The proposals relate to the construction of cabins in connection with rural tourism – the site is already utilized in this capacity and therefore the proposals seek to expand an existing rural

business. The NPPF encourages the expansion of sustainable rural tourism facilities in appropriate locations. Guidance within the PPG is similarly supportive.

The suitability of this site for additional cabins has already been assessed and was deemed acceptable – therefore the site is sustainable for additional tourism facilities.

Policy EG4 within the emerging Local Plan requires that the facilities are required in connection with an existing attraction (which in this case is the appreciation of the Cheshire countryside) and that there are no adverse impacts upon the character of the landscape, residential amenity, infrastructure and that the site has access to local services and employment.

The site was considered sustainable under the last applications and there has been no change in site circumstances to alter this view.

The comments from objectors are duly noted however, the proposals accord with current policy guidance and are therefore acceptable in principle.

### **Landscape Impacts**

The applicant has resubmitted the Landscape and Visual Impact Assessment which was submitted in support of application 09/3544M. Whilst the objectors do not consider that this adequately or correctly identifies the impacts to neighbours and the wider countryside, the conclusions of this report were accepted by officers and by the Inspector under the last application. There has been no material change in site circumstances since that time and policies which seek to protect landscape character including emerging policies would not alter the assessment of the application in this regard.

### **Trees**

As there has been no material change in site circumstances since the last application, therefore the applicant has resubmitted the Woodland Care Plan and Tree Survey and Assessment which was submitted in support of application 09/3544M. Whilst the objectors consider that this needs updating, the Council's Forestry Officer has confirmed that the contents and conclusions would remain sound and that an updated set of conditions to reflect the most recent British Standard would ensure that the proposals would not have an adverse impact upon the trees on the site.

### **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, if there is

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implements the EC Directive in The Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements.

Circular 6/2005 advises LPAs to give due weight to the presence of a European protected species on a development site to reflect.. [EC] ...requirements ... and this may potentially justify a refusal of planning permission."

In the NPPF the Government explains that LPAs "should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity are fully considered..... In taking decisions, [LPAs] should ensure that appropriate weight is attached to .... protected species... ... Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm..... If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

With particular regard to protected species, the NPPF encourages the use of planning conditions or obligations where appropriate and advises, "[LPAs] should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of species detriment, development alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

A protected species survey was carried out by a qualified ecologist on behalf of the applicant and this failed to identify any species being present. Unfortunately, this is now out of date. However, the applicant has indicated that an updated survey is forthcoming. Provided that a satisfactory report is received which either indicates protected species are not present or proposed mitigation, the proposals would not have an adverse impact upon protected species and would accord with policy NE11 and guidance within the NPPF.

Members will be updated on this following the receipt of the relevant surveys.

## **Amenity**

The contents of the objections are duly noted however there has been no material change in circumstances since the last application or a tightening of planning policy in respect of amenity considerations which would justify coming to a different conclusion.

## **Highways**



The applicant has resubmitted the Transport Assessment which was submitted in support of application 09/3544M. Whilst the objectors consider this to be out of date as it was written post NPPF and before the submission of the emerging Local Plan, this is a technical document based on MfS and the policy requirements of the NPPF or the emerging Local Plan would not alter the assessment within this report or its conclusions. This has been confirmed by the Council's highways engineer who has confirmed that the content of the report is acceptable and recommends the same conditions as imposed by the Inspector at appeal.

It should also be noted that there has been no material change in site circumstances since that time.

### **Other Matters**

Issues relating to the applicants actions, need and precedent are not material to the determination of the application.

Drainage issues will be dealt with via condition as recommended by Environmental Health/ Environment Agency.

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

There has been no material change in circumstances or changes in planning policy since the appeal which would warrant coming to a different conclusion on this application, subject to receipt of a satisfactory protected species survey. On that basis, the proposals would accord with the relevant policies within the Macclesfield Local Plan 2004 and relevant policies within the Cheshire East Local Plan Strategy – Submission Version listed above and guidance within the NPPF. Subject to updated protected species surveys confirming no adverse impact on nature conservation interests, the application is recommended for approval subject to conditions.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

Application for Full Planning

**RECOMMENDATION:** Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A04LS - Landscaping (implementation)
3. A01TR - Tree retention

- 4. A02TR - Tree protection
- 5. A04TR - Tree pruning / felling specification
- 6. A07TR - Service / drainage layout
- 7. A04NC - Details of drainage
- 8. A02EX - Submission of samples of building materials
- 9. A01AP - Development in accord with approved plans
- 10. caravans restricted to holiday purposes only
- 11. caravan occupation restricted to
- 12. no caravan occupied between 14 Jan - 1 March
- 13. termination/ stopping up of temporary access
- 14. submission of Travel Plan
- 15. submission of woodland care management plan
- 16. external appearance of caravans
- 17. details of refuse storage
- 18. provision of passing places
- 19. provision of footpath between site and the A536
- 20. bus stop improvements

