

Application No: 15/0037M

Location: RODE HEATH WOOD, BACK LANE, EATON, CHESHIRE

Proposal: Variation of condition 3 (caravan occupancy) on approved 14/0408M - Change of use to allow the siting of 23 timber-clad twin-unit caravans (resubmission of scheme allowed on Appeal under planning permission 09/3544M)

Applicant: Mrs Yvette Johnson

Expiry Date: 06-Apr-2015

### REASON FOR REPORT

The application is a major development requiring a Committee decision

#### SUMMARY

The proposal seeks to reduce the close season on the holiday park from 6 weeks to 2 weeks.

When considering the removal of the closed season condition in 2014, the concern of the inspector was, *"Even with the other occupancy conditions in place, without the clear but short seasonal restriction, I have serious concerns over whether the Council would be able to enforce the distinction between holiday accommodation on a caravan site, which has been acknowledged to be sustainable development, and general residential accommodation in this location, which would not be."*

The closed season is already a relatively short period of 6 weeks. Reducing it further is considered to compromise the ability of the Council to effectively monitor the holiday occupation of the lodges. A 2 week break is a very short period for the Council to assess a potential breach of the occupancy condition, particularly given the remote location, substantial screening, restricted access to the site via high security gates, and the potential for residents to carry out maintenance on their lodges during the closed period. Multiple visits may be required, which would be virtually impossible within a short 2 week window. The duration of the closed season needs to be of sufficient length to ensure that it is enforceable. A 6 week period is also not considered to be unreasonable for either owners or occupiers.

Inspectors have continually been satisfied that in this case the closed season condition as currently worded meets the tests for conditions and it is therefore recommended that the proposal to vary the condition should be refused.

In this case, having regard to all of the above details, it is considered that the 6 week "closed 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.

#### RECOMMENDATION

**Refuse**

## **DETAILS OF PROPOSAL**

This application seeks to vary condition 3 on permission 14/0408M. Condition 3 currently restricts occupancy of the caravans for a period of 6 weeks between 14 January - 1 March each year. The proposed variation seeks to reduce this “closed season” period to 2 weeks between 15 January - 31 January each year.

An accompanying application 15/0036M appears elsewhere on the agenda, which seeks the same variation on appeal reference APP/C0630/A/07/2033939 that relates to the part of the site currently being developed.

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises an area of open land currently used for the grazing of animals. Planning permission 14/0408M granted consent for 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.

## **RELEVANT HISTORY**

14/0408M - Change of use of land to site 23 timber-clad twin-unit caravans (resubmission of scheme allowed on Appeal under planning permission 09/3544M) – Approved 17.04.2014

13/2654M - Application to Remove Condition 3 of Previously Approved Application 09/3544M to Allow the Holiday Park to Operate All Year Round – Refused 18.09.2013, Appeal dismissed 25.03.2014

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 – Refused 18.09.2013, Appeal dismissed 25.03.2014

10/3803M – Remove condition 12 on planning permission 06/2254P (appeal reference APP/C0630/A/07/2033939) – 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**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

- 28. Supporting a prosperous rural economy
- 55. Housing in rural areas
- 206. Conditions

### **Development Plan**

RT13 - New Tourist Attractions

GC5 - Countryside Beyond the Green Belt

### **Other material considerations**

Cheshire East Local Plan Strategy – Submission Version (CELP)

National Planning Practice Guidance

## **CONSULTATIONS**

Environmental Health – No comments to make

Head of Strategic Infrastructure – No objections

Eaton Parish Council – Whilst we see no major impact on the village from the additional four weeks of occupation, the opportunity should be taken to ensure that the register of occupants main home addresses be examined on a regular basis to ensure that these are being used as "holiday" homes as stated in the application.

Nothing has been seen in relation to passing places or any of the other items that formed part of their previous application for the lifting of the conditions imposed. We did state in our previous response to year round occupancy that the original conditions of planning should be fully complied with prior to the granting of the extended opening period and we therefore make the same point again.

North Rode Parish Council – Strongly object on the following grounds:

- No evidence of any change in circumstances affecting the demand for holiday accommodation in the area to warrant the extension
- Concern that if the properties provide accommodation for 11½ months of the year they will become residential homes rather than to facilitate tourism as holiday homes. Most residential homes are occupied for 11½ month (or less) where the family goes away on holiday for two weeks.
- Under the change of condition the units would become residential, but not be contributing to the costs associated with residing in the area.
- Concern that the infrastructure of the village would become unsustainable on the single track roads through greater occupancy.

## **REPRESENTATIONS**

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

- Do not look like caravans
- Do not look like they can be removed from the site
- Occupants should be required to produce deeds for main property and utility bills
- Obvious intention to allow occupants to use as main residence
- Alteration will create a community larger than Eaton and North Rode
- Impact upon local traffic

## **APPRAISAL**

The key issues are:

- Whether condition 3 on planning permission 14/0408M is necessary and reasonable in its present form.

## **ENVIRONMENTAL SUSTAINABILITY**

The principle of the use of the site has already been accepted as a result of the earlier permissions. In terms of environmental impacts, the proposed variation is unlikely to raise any additional issues, unless the proposal is found to result in permanent residential accommodation, which would not be a sustainable form of development.

## **SOCIAL SUSTAINABILITY**

In terms of social aspects, the proposal would serve to increase the availability of the holiday lodges to owners.

## **ECONOMIC SUSTAINABILITY**

An extended occupancy period may provide some limited additional benefits to local businesses, through increased trade. The applicant maintains that the variation will also remove the competitive disadvantage they find themselves in when competing against other parks which operate with a longer season. They state this has affected the rate of sales on the park.

## **PLANNING BALANCE**

### **Principle of Development**

The suitability of the site and the principle of the development have already been assessed by two Planning Inspectors against a similar policy framework to that 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 variation of the condition.

The existing permission for the change of use of land to allow the siting of 23 timber clad twin unit caravans 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 permission includes the following condition:

- 2) *The caravans shall be occupied for holiday purposes only. The caravans shall not be occupied as a person's sole or main place of residence; the owner/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.*

### **Impacts of closed season condition**

Paragraph 28 of the Framework requires local plans to support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.

The applicant has stated that the existing closed season period puts them at a commercial disadvantage, and has affected the rate of sales on the park. Within the supporting information it is stated that at least 3 sales were lost during 2014 due to the prospective purchasers being put off by the inflexibility of the holiday season compared to other parks. The current closed season prevents owners visiting the site for 6 weeks of the year, including during the February half-term.

However, at the time of the previous appeal, the applicant acknowledged that the sales of lodges had been slow largely due to the downturn in the economy. The rate of sales cannot therefore solely be due to the closed season.

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

As with the previous applications for the removal of the closed season condition, the key concern with this application is again whether the variation 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. 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.

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. When allowing the original development on this site in 2010 the Inspector noted, *"I have also imposed a condition requiring a 'close season'. The*

*previous Inspector considered such a condition to be necessary to establish the appropriate degree of restriction of use for the caravans in combination with the condition referred to above [holiday occupancy condition]. The 'close season' condition has not been formally challenged by the appellants as there has been no material change in circumstances in the interim. I also consider a similar condition is necessary in these cases."*

The Inspector during the appeal in 2007 on the adjacent site stated, "*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 currently 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.

Previously, and at the time of the last applications, advice on occupancy conditions was found in Circular 11/95 and the Good Practice Guide on Planning for Tourism. However, both these documents have now been replaced by the National Planning Practice Guidance (NPPG). Whilst the NPPG provides advice on the use of conditions, it does not specifically cover seasonal occupancy conditions.

The Inspector's reasoning for the close season condition when the development on this site was first allowed in 2010 refers to the Inspector's comments in the original appeal (on the adjacent site in 2008), which considered that such a condition was necessary to establish the appropriate degree of restriction of use for the caravans in combination with the holiday occupancy conditions. The original Inspector considered that when taken together, all the stated conditions are sufficient to prevent the caravans being occupied as a main place of residence. The second Inspector considered a similar condition was also necessary in these cases. These decisions were taken in the policy context of the Good Practice Guide on Planning for Tourism. However, the Inspector's decision last year which was concerned specifically with the removal of the closed season condition was made after the Good Practice Guide had been replaced by the NPPG, i.e. in the current policy framework.

### **Previous appeal for removal of condition**

As noted in the planning history above, the applicants have previously sought to remove the closed season condition from the permissions. However, these applications were refused and dismissed at appeal.

The Inspector noted:

*"...it appeared to me at the site visit, that because of the remoteness of the site and the siting and screening of the units within the woodland away from the public realm, it would be difficult for the Council to monitor and be sure that the units were not being occupied as a main or sole residence and therefore as general residential accommodation. I also share the Council's concerns that the caravans themselves were of a high standard of lodge-type accommodation and are individually owned and could easily lend themselves to all-year round general residential use."*

The Inspector went on to state that he had:

*“...serious concerns over whether in practice the Council would be able to enforce the distinction between holiday accommodation on a caravan site, which has been acknowledged to be sustainable development, and general residential accommodation in this location, which would not be.”*

### **Other sites**

The applicant has also pointed to other sites that have had their closed season condition removed. As noted above an Inspector has examined the details of this site, and a second Inspector looked at similar details for the adjacent 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. Finally, a third inspector has also looked at the circumstances of the case, specifically in terms of the closed season condition, and found that the condition is justified in this case.

### **Other material planning considerations**

The proposed variation of the condition is not considered to have any significantly greater impact upon the character and appearance of the countryside, highway safety, ecology, 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**

When considering the removal of the closed season condition last year, the concern of the latest inspector was, *“Even with the other occupancy conditions in place, without the clear but short seasonal restriction, I have serious concerns over whether the Council would be able to enforce the distinction between holiday accommodation on a caravan site, which has been acknowledged to be sustainable development, and general residential accommodation in this location, which would not be.”*

The closed season is already a relatively short period of 6 weeks. Reducing it further is considered to compromise the ability of the Council to effectively monitor the holiday occupation of the lodges. A 2 week break is a very short period for the Council to assess a potential breach of the occupancy condition, particularly given the remote location, substantial screening, restricted access to the site via high security gates, and the potential for residents to carry out maintenance on their lodges during the closed period. Multiple visits may be required, which would be virtually impossible within a short 2 week window. The duration of the closed season needs to be of sufficient length to ensure that it is enforceable. A 6 week period is also not considered to be unreasonable for either owners or occupiers.

Inspectors have continually been satisfied that in this case the closed season condition meets all of the six tests for conditions now set out in paragraph 206 of the Framework as:

- i. Necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and

vi. reasonable in all other aspects

The condition as currently worded is considered to meet the above tests and it is therefore recommended that the proposal to vary the condition should be refused.

In this case, having regard to all of the above details, it is considered that the 6 week “closed 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.

**Refuse 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.



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