

PLANNING COMMITTEE – 12 MARCH 2015

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 14/506434/FULL			
APPLICATION PROPOSAL Removal of condition 5 on planning permission SW/05/1246 - (APP/V2255/A/06/2008142 allowed on appeal dated 3/7/2006)			
ADDRESS Red Lion Caravan Park London Road Dunkirk Kent ME13 9LL			
RECOMMENDATION- REFUSE			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL Contrary to local plan policies for permanent new residential accommodation in the countryside.			
REASON FOR REFERRAL TO COMMITTEE Parish Council Support			
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr S Beaney AGENT Woodstock Associates	
DECISION DUE DATE 05/02/15	PUBLICITY EXPIRY DATE 05/02/15	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/81/0909	Change of use of land to parking of overnight caravans	Approved	04.12.1981
SW/84/1172	Toilets & shower and change of use of land to permanent caravan park	Approved	23.01.1985
SW/05/0662	Change of use from touring caravan site with caravan storage and maintenance to static caravan site and demolition of workshop and toilet block.	Refused	12.07.2005
SW/05/1246	Change of use from touring caravan site with caravan storage and maintenance to static caravan site and demolition of workshop and toilet block.	Refused but Allowed at appeal ref V2255/A/06/2008142	03.07.06

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site lies within the open countryside and in the Blean Woods Special Landscape Area. The land is currently approved as static holiday caravan park. The site is located on the north side of the old London Road at the eastern end of Dunkirk. Currently located on the site are 10 twin-unit caravans which are accessed off a small access driveway which leads on to London Road. Mature trees border the site to the eastern and northern boundaries beyond which is open countryside. Adjoining the site to the west is the Red Lion Public House and associated motel accommodation.
- 1.02 Planning permission for change of use from a touring caravan site to a static holiday caravan site was refused under SW/05/1246 and subsequently approved under appeal ref APP/V2255/A/06/2008142 (please see appendix A for full details). The Inspector noted the rural location of the site and imposed three conditions (numbers 3, 4 and 5) aimed at ensuring that the site was used for holiday caravans and to prevent the site being used for ordinary residential purposes.

2.0 PROPOSAL

- 2.01 Planning permission is sought for the removal of condition 5 of appeal allowed under APP/V2255/A/06/2008142 which states that:

‘No caravan shall be occupied at any time between 10th January and 10th March (inclusive) in any year’

- 2.02 The applicant is seeking to remove this condition to allow the residents of the caravan park all year round occupancy. The applicant’s case is essentially that the Inspector’s reasoning for condition 5 was to “emphasise” conditions 3 and 4 and on its own was not necessary – thus failing the then and now tests for imposing a planning condition.

3.0 OTHER RELEVANT PLANNING HISTORY

- 3.01 Members may recall that at their meeting held in October 2014 they refused permission for application SW/14/0601 to remove the occupancy condition on the dwelling associated with this caravan park, despite the applicant suggesting that this was no longer necessary as each owner managed their own caravan bookings themselves.

4.0 PLANNING CONSTRAINTS

- 4.01 Countryside and Special Landscape Area Policy E9.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Policies E1, E6, B6, B7, H2 and RC3 of the adopted Swale Borough Local Plan 2008 are relevant and considered to be in compliance with the NPPF.
- 5.02 The NPPF is relevant in that it encourages LPAs to “*support sustainable rural tourism and leisure developments that benefit business in rural areas...and which respect the character of the countryside*” (para. 28).

The recent National Planning Policy Guidance (NPPG) is also relevant. Para.007 states:

“When planning for tourism, local planning authorities should:

- *consider the specific needs of the tourist industry, including particular locational or operational requirements;*
- *engage with representatives of the tourism industry;*
- *examine the broader social, economic, and environmental impacts of tourism;*
- *analyse the opportunities for tourism to support local services, vibrancy and enhance the built environment; and*
- *have regard to non-planning guidance produced by other Government Departments.*

Local planning authorities may also want to consider guidance and best practice produced by the tourism sector. Further guidance on tourism can be found on the Visit England website.”

6.0 LOCAL REPRESENTATIONS

6.01 Four letters of support (3 from residents of the caravan park) making the following summarised comments:

- “As a resident at the above address we would like to see 12 months granted as a residential site.”
- “As a small community of 10 homes ...the majority of people are retired or semi-retired.”
- “We would more than welcome residential status.”
- “It is a very quiet and restful place to live during our time here from June.”
- “I therefore ask you to give your support to the above application and allow us at the Red Lion Park to become full residents in the village of Dunkirk.”
- The site is very well maintained
- lovely community spirit
- we would more than welcome residential status
- everyone takes care of their properties and maintain a tidy environment
- residents take great pride in their homes and gardens
- always a risk of theft during the closed period

7.0 CONSULTATIONS

7.01 Dunkirk Parish Council supports the application for removal of condition 5. They say that it is a well-run and well managed site and the Parish Council concur with the comments of the Council’s Economy and Community Services (ECS) Manager that tourism is a year round business.

7.02 The Council’s ECS Manager has stated that;

“Provided that conditions 3 and 4 set out prevention position on residential occupancy I have no particular comments relating to remove of condition 5 around seasonal occupancy; tourism in Swale, as with other destinations across the UK, is increasingly becoming a year round business as businesses work to secure new markets from new business opportunities not based on traditional seasonality or themes. If I have a concern it is around the comments placed on Trip Advisor about the destination site which suggest that the business is not wholly locked into meeting customer expectations which is damaging to the business itself and ultimately the area in terms of building its tourism profile.”

8.0 BACKGROUND PAPERS AND PLANS

8.1 14/506434/FULL

SW/05/1246 and subsequent appeal ref APP/V2255/A/06/2008142 which allowed planning permission for the following:

'Change of use from touring caravan site with caravan storage and maintenance to static holiday caravan site and demolition of workshop and toilet block.'

9.0 APPRAISAL

- 9.01 The application site is an existing holiday park, with a corresponding designation under policy B7 of the adopted Local Plan. As such it is recognised as a tourist venue, and there is broad local and national policy support for developments that support the operation of the business.
- 9.02 In the appeal decision (Appendix A) the Inspector specifically stated that *'it seems to me that a close down period condition would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable'*. The conditions attached to this appeal decision clearly seek to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation. I am fully of the opinion that to now allow the deletion of condition 5 (close down period) would give the impression that permission was granted for full time all year round residential use of the site contrary to the aims of Policy B7 of the Swale Borough Local Plan 2008. This indeed is what supporters of the application seem to be in favour of, even though this is not what the applicant suggest he wants.
- 9.03 Policy B7 is quite clear in that it seeks to prevent the use of holiday homes as a sole or main residence and clearly states that *'The Borough Council will refuse proposals to extend the occupation period beyond these dates'*. In my opinion the proposal is contrary to the aims of Policy B7 and will clearly result in permanent residential use of the site. It will also make it difficult to enforce use for holiday purposes. The Inspector made it clear that condition 5 was intended to be "easily enforceable"
- 9.04 I am concerned by a number of letters of support that have been received which indicate that residents of the site are welcoming a full residential use of the site. It is very likely that if a close down period is not enforced then the site will be used for permanent residential accommodation. There is already strong evidence that the owners of the units are on the site all year round and using them as sole residential accommodation. The case officer's site visit on 25th February 2015, during the closed period, noted that there was evidence of the site being occupied, with several cars parked to the front of the units at 8.45am.
- 9.05 The pretext, at paragraph 3.94, to Policy B7 states that *"all units of accommodation on holiday parks will remain subject to a seasonal occupancy condition. This essentially reflects the fact that these parks are generally in rural areas where permanent residential use would be contrary to planning policies intended to prevent residential development within the countryside.*
- 9.06 Further to this, policies H2 and RC3 state that permission for new residential development will be granted for sites allocated as such on the Proposals Map, or lying within the defined built up area boundaries – this site falls into neither category. They continue on to state that, outside of these areas, residential development will only be permitted where it is wholly intended to meet an identified local need or agricultural dwellings, in accordance with the Council's other established policies.
- 9.07 I note the comments made by the agent with regards to the lack of need for condition 5, as conditions 3 and 4 restrict the caravans to be only used for holiday purposes and to require a register of owners' names and addresses. However, I do not consider that condition 5 is unnecessary in this case as it ensures that the site is not used for permanent residential accommodation or used all year round. The nature of the site would be permanently changed if it was to be allowed to be open all year round and without alternative controls on occupancy e.g. limiting use to fixed periods throughout the year, I cannot see how the

holiday nature of the use can effectively be enforced. The condition in question was imposed by an Inspector. Guidance on conditions has not materially changed since this time and I do not see that the condition can be removed without some harm arising.

- 9.08 I also note the letter of support received from the Parish Council who maintains that the site is well run and well managed. I agree that the site is well managed but do not consider this a reason to divert from local planning policy to allow the permanent all year round use of the site.

10.0 CONCLUSION

- 10.01 The proposal which seeks all year round use of the site is contrary to Policy B7 which specifically seeks to prevent its use as a sole or main residence. In my opinion there is no overriding reason to allow all year occupancy on this site without compromising the nature of the site, i.e. as a tourist accommodation site which is not to be used as a residential site. The Council has retained a strong presumption against all year round occupancy of holiday parks because of the wish to see properties used for holiday purposes and because of the tendency for full time use to result, plus the ensuring enforcement difficulties. I therefore recommend that planning permission be refused.

11.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The site lies in a rural area outside of any built up area boundary as defined by the adopted Swale Borough Local Plan 2008, in a remote and unsustainable countryside location, and is considered to be unacceptable as a matter of principle contrary to the rural restraint policies, which seek amongst other things, to resist permanent residential accommodation in the countryside. and contrary to policies E1, E6, H2 and B7 of the Swale Borough Local Plan 2008.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

This application was not considered to comply with the provisions of the Development Plan and NPPF.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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file c 3729.
06/012.



Appeal Decision

Site visit made on 30 May 2006

by Ray Yorke BA Dip TP MRTPI MRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

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Date: 3 July 2006

Appeal Ref: APP/V2255/A/06/2008142

Red Lion Caravan Park, Old London Road, Dunkirk, Faversham, Kent, ME13 9LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S. Beaney against the decision of Swale Borough Council.
- The application (Ref SW/05/1246), dated 09 September 2005, was refused by notice dated 14 December 2005.
- The development proposed is described in the application as *use of land as a static holiday caravan site with service road and demolition of existing workshop and toilet block.*

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Main Issue

1. I consider that the main issue in this case is the effect of the proposal on the character and appearance of the countryside which is designated as a Special Landscape Area (SLA).

Development Plan and other Planning Policies

2. The development plan for the area includes the Kent Structure Plan adopted 1996 (SP) and the Swale Borough Local Plan adopted 2000 (LP). SP Policy ENV1 protects the countryside for its own sake and resists development which will adversely affect it unless there is an overriding need. Policy ENV4 defines SLAs and says that long term protection will be given to these areas with priority given to the conservation and enhancement of natural beauty of the landscape over other planning considerations, whilst having regard to economic and social wellbeing. Policy RS1 expects development at villages and in the open countryside to be well designed and to be appropriate in such matters as location and appearance. Policy RS5 normally resists development in rural Kent, with certain exceptions which include a land use essentially demanding a rural location.
3. LP Policy G1 is a general policy relating to all development proposals which are expected, among other things, to avoid an unacceptable impact on the natural and built environment and to have a high standard of landscaping. Policy E9 takes a similar approach to SP Policy ENV1 in protecting the countryside for its own sake, but lists a number of exceptions. Policy E14 takes a similar approach to SLAs as SP Policy ENV4. Policy T6 seeks to impose restrictions on the period of occupation of new holiday caravans, or the redevelopment of existing sites. Policy T9 permits touring facilities at sites and defined holiday areas shown on the Proposals Map and well related to the main road network but subject to the criteria of Policy G1 and to accessibility criteria. The parties have not supplied me with relevant extracts from the Proposals Map.

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4. National planning policy guidance is a material consideration in planning decisions. My attention has been drawn to PPS7: *Sustainable Development in Rural Areas* and to PPG21: *Tourism*.

Reasons

5. The appeal site is located within the countryside outside the confines of any village and within an SLA. There is a certain amount of development in the vicinity, including the Red Lion public house and modern motel development associated with it immediately to the west of the appeal site, modern commercial development opposite, and other sporadic development including some dwellings in the vicinity.
 6. The existing site is well screened by mature landscaping along its eastern boundary and relatively well screened from the road by landscaping and by the appellants' dwelling and office building, which immediately adjoins the appeal site. There are oblique views into the site from the road towards the existing toilet block. Views of the site from the west are obscured by the public house and motel buildings. The proposal would involve the loss of a group of relatively young trees in the centre of the site and a slight reduction in the landscaping to the front of the site, but there would be scope to improve the landscaping on the western boundary.
 7. Currently permitted uses at the appeal site include use as a touring caravan site and for caravan storage and hire, and the use of the workshop building to the rear of the site for the cleaning and maintenance of caravans. At the time of the site visit, there were seven touring caravans on the site, but 16 caravans were being stored on the western part of the site and a further 5 caravans were being stored at the northern end of the site within the compound associated with the workshop building.
 8. The proposal would involve the removal of the toilet block close to the site entrance and the large workshop building to the rear of the site. The submitted plan shows that provision would be made for 10 twin unit static caravans, car parking and a service road generally on the line of the existing track. Removal of the toilet block would be likely to increase views into the site from the road to some extent.
 9. The Council has not submitted a statement in relation to the appeal but the Council's officers' report expresses concern that the proposed use would be more suburban in appearance than the existing use of the site and would be harmful to the countryside because of its permanent nature. Whilst I accept that the use of the site by touring caravans will tend to fluctuate depending on the time of year, it seems to me that the other uses of the site particularly for caravan storage and the use of workshop would be likely to be of a more permanent nature. The appearance of the development could be improved by new landscaping and careful control of the materials for the service road and parking areas.
 10. Twin unit static caravans would be larger than touring caravans and would be permanently located on the site. However, I have taken into account that the site is generally well screened from view, that there is existing development in the immediate vicinity, and that the proposal would involve the demolition of two buildings, including the visually unattractive workshop. It seems to me that the proposed use would not have a significantly greater effect on the character and appearance of the area than the existing authorised uses of the site.
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11. I consider that provision of a small static holiday caravan site within this area of countryside would be consistent with SP Policy ENV1 and LP Policy E9 and that it would be appropriate in location consistent with SP Policies RS1 and RS5 in that the use essentially demands a rural location. It seems to me that it would not be likely to have an unacceptable effect on the natural environment and would not cause demonstrable harm to residential amenity consistent with LP Policy G1. In my view the proposal would also be consistent with SP Policy ENV4 and LP Policy E14 in that it would not adversely affect the SLA. I consider that it would also be consistent with national policy planning guidance in PPG21 which generally supports development in the countryside to meet the needs of visitors subject to criteria being met. Furthermore, I consider it would be consistent with the more recently issued PPS7 which recognises that in areas designated for their landscape qualities, there will be scope for tourism and leisure development, subject to appropriate control.
12. I conclude on this issue that the proposal would not be likely to have a significantly adverse effect on the character and appearance of the countryside and the SLA.

Other Considerations

13. The Council's officers' report expresses concern that the proposal will result in the loss of a touring caravan site and says that there are only a limited number of these within the borough. The report points out that there are a considerable number of static caravan places in the borough. However, I note that most of these are on the island of Sheppey rather than on the mainland, where the officers' report suggests there are few static sites.
14. Although I have noted the officers' comment regarding the relatively recent change of ownership of the site and what they consider to be a lack of marketing of the site as a touring caravan site, it seems to me that road access to the site has become less easy to find for those unfamiliar with the area following the construction of the new A2. This may have made the site less attractive for owners of touring caravans. In my view, the site would provide a small static holiday caravan site which might well appeal to those who do not wish to visit what are generally much larger sites at Sheppey.
15. The appellants consider that the present use of the site for touring caravans is uneconomic and they have submitted financial information in support of this argument. The Council has not commented on this information. I do not find this information fully convincing but in my view the question of the comparative financial viability as a touring caravan site or for the use proposed is not central to the main issue which I have discussed above.
16. The appellants have referred to the possibility of use of adjoining land in their ownership as a touring caravan site for up to 5 caravans for use by exempted organisations. However, this does not form part of the application the subject of this appeal and I have not therefore considered it.
17. My attention has been drawn to the planning history of some other sites including an appeal decision relating to a site in Yorkshire. The full circumstances of these other cases are not before me and I have determined this appeal on its own merits, having regard to relevant planning policies and other material considerations.
18. These other considerations do not lead me to a different conclusion than I have reached in respect of the main issue set out above.

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Conditions

19. In framing conditions, I have had regard to the provisions of Circular 11/95: *The Use of Conditions in Planning Permissions*. The Council has not suggested any conditions but there appear to have been some discussions between the parties and in the officers' report regarding the period of occupancy. I have noted the appellants' comments regarding possible conditions. In addition to the standard time condition relating to the period in which the development may commence, I shall impose conditions to restrict the number of caravans that may be accommodated on the site to the number shown on the submitted plans and to restrict them to holiday purposes only, to require the site owner or operator to maintain a register of the permanent residential addresses of the owners/occupiers of the caravans and to limit the period of occupation. I impose these conditions in order to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation having regard to planning policies for the area.
20. LP Policy T6 seeks to limit occupation of holiday caravans to 1st March to 31st October plus the Christmas period. However, it seems to me that Policy T6 is unduly restrictive and not consistent with the guidance in paragraph 9 of Annex B of PPG21. A 10 months period of occupation seems to me to be appropriate taking into account that guidance. The appellant has pointed out that in the Yorkshire appeal the inspector did not consider a close down period to be necessary in view of other conditions. However, it seems to me that a close down period condition would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable.
21. The officers' report expresses a preference for a 28 day limit of consecutive occupation and refers to the current restriction on touring caravans to a consecutive period of not more than 14 days. However, unlike touring caravans, static caravans would remain on the site for long periods of time, and it seems to me that enforcement of a 28 day limit would require intrusive checks on occupiers. In my view, the other conditions proposed would be adequate to ensure that the site is not used as permanent residential accommodation.
22. I shall impose a condition to restrict commercial and storage activities in the interests of the amenity of occupiers of the site and nearby residents. I regard conditions relating to the landscaping of the site and for approval of the materials to be used for the access road, parking areas and hardstandings as necessary to achieve a satisfactory appearance. A condition regarding foul and surface water drainage is also necessary to ensure proper provision. I shall impose a condition to require the removal of the existing workshop and toilet buildings in the interests of achieving a satisfactory development, and a condition to ensure the parking and turning areas are kept available for that purpose in the interests of highway safety and the amenity of the occupiers of the caravans.

Conclusion

23. For the reasons given above and having considered all other matters raised including the representations received from third parties, I conclude that the appeal should be allowed.

Formal Decision

24. I allow the appeal and grant planning permission for the use of land as a static holiday caravan site with service road and demolition of existing workshop and toilet block at Red Lion Caravan Park, Old London Road, Dunkirk, Faversham, Kent, ME13 9LL in

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accordance with the terms of the application, Ref. SW/05/1246 dated 09 September 2005, and the plans submitted therewith, subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. Not more than ten caravans shall be accommodated on the site at any time.
3. The caravans on the site shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.
4. The site owners/operators 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.
5. No caravan shall be occupied at any time between 10 January and 10 March (inclusive) in any year.
6. No goods, commercial or trade vehicles, nor any trade or commercial plant, machinery, equipment, materials or stock shall be brought onto or stored on the site.
7. No development shall be carried out until full details of both hard and soft landscape works, including means of enclosure, hard surfacing, including the materials and method of construction of the service road, parking areas and any hardstandings for the caravans, trees and other landscaping to be retained, and proposed planting, together with a programme for their implementation, have been submitted to and approved in writing by the local planning authority. These works shall be carried out in accordance with the approved details prior to the occupation of any caravan on the site or as may be otherwise agreed in writing by the local planning authority.
8. The development hereby approved shall not be commenced until details of the works for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. No caravan shall be occupied on the site until the approved works have been carried out.
9. No development shall be carried out until the existing workshop and toilet buildings have been demolished and all materials arising from the demolition have been removed from the site.
10. The areas shown on the submitted plans for parking and turning of vehicles shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

RJ Yorke

INSPECTOR