

3.2 REFERENCE NO - 15/503633/FULL			
APPLICATION PROPOSAL Change of use of holiday caravan park to residential caravan park			
ADDRESS Red Lion Caravan Park London Road Dunkirk Kent ME13 9LL			
RECOMMENDATION- Refuse subject to outstanding comments from the Tourism Officer.			
SUMMARY OF REASONS FOR REFUSAL Contrary to local plan policies on permanent new residential accommodation in the countryside.			
REASON FOR REFERRAL TO COMMITTEE Parish Council support			
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Horace Gaskin AGENT RPS	
DECISION DUE DATE 02/10/15	PUBLICITY EXPIRY DATE 14/08/15		
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	03.07.06
SW/11/0909	Change of use of land from a touring caravan park to a static holiday caravan site	Refused and dismissed at appeal	06.07.2012
SW/14/0601	Deletion of condition 2 which restricts the use of the manager's house on the site to a manager's only dwelling	Refused	03.11.2014
14/506434/FULL	Removal of condition 5 on planning permission SW/05/1246 - (APP/V2255/A/06/2008142 allowed on appeal dated 3/7/2006)	Refused at Planning committee	02.04.2015

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 for 10 months use, with additional conditions to secure holiday use. 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 central 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 motel.
- 1.02 Planning permission for change of use from a touring caravan and caravan storage/hire site to a static holiday caravan site was refused under SW/05/1246 and subsequently approved under appeal ref APP/V2255/A/06/2008142 in 2006. Planning conditions imposed on the appeal decision seek to ensure that the caravans are used exclusively for holiday use and not as permanent full time residential accommodation. I have attached the full appeal decision as Appendix 1 to this report so that Members can see the reasons behind the original decision and the full set of conditions. Conditions 3 to 5 inclusive are the pertinent conditions which Members will note from paragraphs 19 and 20 of the appeal decision that these conditions were imposed “in order to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation having regard to the planning policies for the area”. Condition 5 was imposed specifically as the Inspector said that “a close down period would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable”.
- 1.03 Planning permission was recently refused earlier this year by Members for the removal of condition 5 of SW/05/1246 which sought to allow all year round occupancy of the site. The reason for refusal stated:
- ‘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.’
- 1.04 Other decisions of note are the recent refusal by Members of an application to remove a condition restricting occupation of the manager’s house on the site, and an appeal decision in 2012 on adjacent land for the establishment of an additional static caravan park, the full appeal decision is appended as Appendix 2 to this item.

2.0 PROPOSAL

- 2.01 Planning permission is now sought for change of use of the holiday caravan park to a residential caravan park allowing full residential use on a permanent residential basis. No changes to the units or park layout are proposed as part of this application.
- 2.02 The agent has submitted a detailed covering letter setting out the justification for allowing the change of use. This letter is attached as Appendix 3 to this report.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	00.40	00.40	0
No. of Residential Units	0	10	+10

4.0 PLANNING CONSTRAINTS

The Countryside and Special Landscape Area.

Potential Archaeological Importance

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Saved policies E1, E6, E9, B5, B6, B7 and RC3 of the adopted Swale Borough Local Plan 2008 are relevant and considered to be in compliance with the NPPF. These policies generally resist residential use in the countryside by policy B7 states that;

Policy B7

Seasonal occupancy period for holiday parks

A condition and/or suitable legal agreement will be imposed on any planning permission involving the creation of any new holiday caravan or chalet units, or the redevelopment of existing sites, preventing their use as a sole or main residence and limiting occupation to 1st March to 31st October in any year, and where sites are not at risk of flooding, to an 11 day Christmas/New Year period, namely 23rd December to 2nd January the following year. Additionally, on those sites known to be within a designated flood risk area, the Borough Council will require the provision of such flood warning measures as may be required by the Environment Agency.

The Borough Council will refuse proposals to extend the occupation period beyond these dates.

The National Planning Policy Framework

- 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).

Paragraphs 49 states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

Paragraph 55 relating to delivering a wide choice of high quality homes states that:

'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area.'*

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."

6.0 LOCAL REPRESENTATIONS

6.01 I have received 10 letters of support making the following summarised comments. Seven of these letters are from addresses on the application site:

1. High quality static caravan homes that are well maintained
2. "We have lived at Red Lion Caravan Park for 2yrs now, although when we bought the home we were fully aware of the planning permission only being for 10 months residency, the position of the park and the number of homes here and how well looked after it is by everyone when looking at other sites this was the best one and just what we were looking for."
3. Offer affordable retirement homes of which there is a shortage in the local area
4. The majority of the homes are occupied by retired people
5. Finding alternative accommodation would cause major disruption to the lives of the residents
6. Risk to contents and security of the homes if left unoccupied for 2 months of the year
7. No visual impact from 12 months occupancy to the existing situation
8. Residents already pay council tax for their homes on the site
9. Residents have blended in well with the community
10. Close to local amenities and easy access- good bus routes
11. The residents support the local businesses
12. Mobile homes suitable for habitable accommodation during the winter months
13. The park homes have been designed for full residential accommodation
14. The homes look like bungalows and all have off road parking with nice gardens

7.0 CONSULTATIONS

7.01 Dunkirk Parish Council supports the application and makes the following summarised comments:

1. Any decision appears to rely on previous decisions and is therefore not considered on its own merits
2. The site, whilst outside of the village envelope, is next door to the only public house in Dunkirk, 20m from the farm shop and has a post box and a bus stop just outside the site entrance
3. There are a number of houses close by and other residents support this application
4. The site is extremely well kept
5. There is a need for homes in Dunkirk and the emerging Neighbourhood Plan is currently determining the level of this need
6. The Local Plan is out of date and the emerging plan will probably be found unsound
7. The application would provide housing numbers towards the 5 year shortfall
8. The proposal is in line with the guidance contained within the NPPF in paragraphs 47,48, 49 and 50

9. The homes would fulfil a local need and requirement
- 7.02 The County Archaeological Officer has no objection, and no condition is recommended.
- 7.03 Kent Highway Services have not responded to consultation.
- 7.04 The Council's Tourism Officer has not yet responded to consultation, I will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers for applications SW/81/0909, SW/84/1172, SW/05/0662, SW/05/1246, SW/11/0909, SW/14/0601, 14/506434/FULL and 15/503633

9.0 APPRAISAL

- 9.01 In my view, the main consideration in the determination is the principle of the change of use from seasonal holiday park to a year round residential caravan park. Strictly speaking this is not a change of use, and the application ought to have been submitted as an application not to comply with the various conditions of the appeal decision. However, the applicant has been most insistent on this point and the working description of the application is as above.
- 9.02 The application site is an existing recently approved holiday park, with a corresponding relationship to 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.
- 9.03 In the 2006 appeal decision 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 permanent full residential use of the site would be contrary to the aims of Policy B7 and E6 of the Swale Borough Local Plan 2008.
- 9.04 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 loss of any tourism potential at the site, a site which is high quality and extremely well located for the very substantial tourism attractions of Canterbury, the coast and Faversham.
- 9.05 Though in this case the applicants are now seeking a change of use to full residential use this application is really no different to the recently refused application 14/506434/FULL for the deletion of condition 5 (occupancy

restriction) of the appeal decision, a decision which Members took earlier this year. Members will also be aware of a subsequent appeal decision supporting such a decision at Parklands Village, Minster where loss of holiday stock was uppermost in that Inspector's mind, despite the reference to housing land supply being raised by the appellant in that case. That very recent appeal decision is attached as Appendix 4 to this report, and I would direct Members to paragraphs 14 to 26 of that decision.

- 9.06 Furthermore the pretext, at paragraph 3.94 to Policy B7 3.94 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.*
- 9.07 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.
- 9.08 Permitting year-round residential use on this site would set an undesirable precedent for all other sites across the borough and would effectively result in a number of dwellings being created in the designated countryside contrary to local and national planning policies.
- 9.09 In respect of housing in the Countryside, para 55 the NPPF states that *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (amongst other things):

- *Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting”.*

- 9.10 Following on from this Policy E6 of the Local Plan deals with the issue of rural restraint and explains that *“the quality, character and amenity value of the wider countryside of the Borough, will be protected and where possible enhanced.”* There is a presumption against development and proposals will only be permitted in specific circumstances.

- 9.11 As the site falls outside any defined built up area boundary in the Local Plan 2008 and is therefore under policy E6 and is treated as countryside for policy purposes. In the countryside policy E6 limits development to a number of specific circumstances, none of which apply here, furthermore it excludes the creation of new housing unless necessary to support a rural enterprise, justified as affordable units or to reuse an existing rural building, again none of which apply in this case.
- 9.12 In my view, therefore, there is a fundamental policy objection to residential development in this location and the development proposed and is therefore unacceptable. The adoption of the NPPF has changed the policy situation to a certain extent, but not to the degree that isolated and unsustainable sites within the countryside are now considered acceptable for housing. The thrust of the NPPF guides the Council towards reconsidering proposals for medium to large-scale developments that may otherwise be unacceptable, but which would contribute towards housing supply. This proposal, for 10 residential caravans, would not significantly contribute to the Council's housing allocations target and therefore should not be considered acceptable under the NPPF.
- 9.13 It is acknowledged that policy H2 of the Local Plan is vulnerable because the Council does not currently have a five year housing land supply. As such, new homes within the countryside are potentially acceptable where the development can be deemed to be sustainable. This is in line with the presumption in favour of sustainable development – the key principle of the NPPF. I do not find the applicant's almost total reliance on the issue of housing land supply to be overriding here, nor is it clear to me that the NPPF is suggesting that high quality tourist accommodation should be lost even if the housing supply question is of significance. This argument was not supported by the Inspector in the 2015 appeal decision in Minster at Appendix 4 to this report.
- 9.14 In my view, the site lies in an unsustainable location, which therefore renders it undesirable for residential use under the guidance of local and national policy. The proposal is therefore considered undesirable and contrary to policies E1, E6 and H2 of the Swale Borough Local Plan 2008, and to paragraph 55 of the National Planning Policy Framework. However, the site is well located to serve its approved tourism role and the 2013 appeal decision is evidence of pressure for further static caravan accommodation in this area.
- 9.15 I also note the letter of support received from the Parish Council which maintains that the site is well run/well managed and would contribute towards the local housing need and borough-wide housing numbers. I agree that the site is well managed but do not consider this a reason to divert from local planning policy to allow the change of use to permanent residential use. The proposal would only provide 10 residential caravans which would not contribute in any significant manner towards the borough-wide 5 year housing shortfall.

10.0 CONCLUSION

10.01 The proposal which seeks all year round residential use of the site is contrary to Policy B7 which specifically seeks to prevent their use as a sole or main residence. In my opinion there is no overriding reason to allow all year residential use on this site without compromising the nature of the site, i.e a tourist accommodation site which is not to be used as a residential site. Furthermore, a precedent would be set which may result in other sites coming forward for permanent residential use in the countryside. This change of use would conflict with the development plan aim of restricting undesirable development in rural areas and to protect the countryside for its own sake. I therefore recommend planning permission be refused.

11.0 RECOMMENDATION – REFUSE for the following reasons:

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 permanent residential use here 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. The proposal will also result in loss of high quality and well located holiday accommodation, and would in total be contrary to policies E1, E6, B5 and B7 of the Swale Borough Local Plan 2008.

Council's approach to the 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:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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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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

APPENDIX B

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The Planning Inspectorate

Appeal Decision

Site visit made on 7 June 2012

by Elizabeth Lawrence BTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2012

Appeal Ref: APP/V2255/A/12/2169264
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 & Mrs S Beany against the decision of Swale Borough Council.
- The application Ref SW/11/0909, dated 14 July 2007, was refused by notice dated 9 September 2011.
- The development proposed is for the change of use of land from a touring caravan park to a static holiday caravan site with ancillary service road and bases.

Preliminary matters

1. Currently there is a hard surfaced access road, caravan hard-standings, a facilities/office building and two portacabins used for showers on the Appeal site. It would appear from the evidence submitted that these hard surfaces and structures were constructed and/or placed on the land in or around 2007, in association with the change of use of the land to a caravan site. However, neither the structures nor the hard surfaced areas benefit from planning permission, or a Certificate of Lawfulness. Accordingly for the purposes of this Appeal very little weight is give to their existence.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding rural area.

Reasons

4. Policy E1 of the Swale Borough Local Plan 2008 states that all development proposals are expected to accord with the policies and proposals of the Plan unless material considerations dictate otherwise. A proposal should respond positively by reflecting the positive characteristics and features of the site and the locality; protect and enhance the natural and built environments; and be both well sited and of a scale, design and appearance that is appropriate to the location, with a high standard of landscaping.

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5. The Appeal site is located outside any defined built-up area and within the Blean Woods Special Landscape Area (SLA). It is in an area where Policy E6 of the Swale Borough Local Plan states that development proposals will only be permitted in certain circumstances specified in the policy. It does not include the formation of new or the extension of existing static caravan parks. At the same time policy E9 states that within SLA the priority is the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well-being of communities.
6. The Appeal site is registered with the Camping and Caravan Club and is used as a touring caravan site for up to 5 caravans, in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). At the time of the Appeal site visit there were 5 caravans on the land and the Exempted camping adviser has confirmed that the site is relatively well used.
7. This indicates that the site helps meet the current demand for certificated touring caravan sites in the area and there is no evidence to suggest that vehicular access to the site is seen to be unduly difficult for visitors, or has an adverse impact on highway safety. It also indicates that the existing touring site supports local services and facilities and local employment. This is consistent with the rural economic policies and advice set out in the National Planning Policy Framework (NPPF) and the *Good Practice Guide on Planning for Tourism* produced by the Department for Communities and Local Government.
8. There is no evidence to suggest that the structures and hard surfaced areas are necessary for the operation of a certificated touring caravan site. Without this built development the site would have the appearance of an enclosed field, as shown on the aerial photographs submitted by the Council. Enclosed fields are an important characteristic of the SLA and in this instance the site contributes to the rural setting of the development to the south and provides a gentle transition between that development and the more open countryside to the north.
9. With the proposal the Appeal site would be intensively developed with 8 twin unit caravans that would be permanently sited and served by a permanent access road, parking spaces and paths. As a result the proposal would completely change the rural character and appearance of the site, having an urbanising effect. It would be totally out of keeping with its rural surroundings, the low key linear development along the north side of Old London Road and the landscape quality of the area. This is irrespective of whether or not the existing built development on the Appeal site is taken into account.
10. The physical and environmental differences between the use of the site for 5 touring caravans as opposed to 8 static caravans is significant due to the permanent built up nature of 8 static caravans and associated built infrastructure. This is illustrated by the existing static holiday caravan site immediately to the east, which due to its layout, boundary treatments, landscaping and the appearance of the twin units has the appearance of an intensively developed residential twin unit park. It appears domestic and suburban, when viewed from Old London Road, the public house, the countryside to the east and the Appeal site.

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11. The proposal would almost double the size of the existing static caravan site and would be far in excess of a small extension to it. The proposed additional static caravans would be visible from both Old London Road and the Public House garden area to the south. Due to its siting, layout and form the extended static holiday caravan site would fail to respect or relate to the positive rural characteristics and features of the site and locality. Both on its own and together with the existing static caravan site the proposed scheme would seriously detract from and would appear as a discordant feature within the surrounding built and natural environment. Accordingly the proposal would conflict with policies E6 and E9 of the Local Plan
12. Paragraph 3.91 of the Local Plan advises that there is a particular need for new high quality serviced holiday accommodation and cites guest houses, inns, bed and breakfast establishments and farmhouse accommodation as becoming increasingly popular, particularly in rural areas. Against this background policy B5 of the Local Plan states that existing tourist accommodation should be retained and that new serviced and self-catering accommodation will be permitted in accordance with the Local Plan. Policy E1 similarly requires new development to accord with the policies and proposals of the Plan unless material considerations indicate otherwise.
13. Policy B6 of the Local Plan goes on to specifically address holiday parks. It states that planning permission will not be granted for any new static holiday caravans and chalets outside the holiday park areas shown on the Proposals Map. Any upgrading or improvement of existing static holiday caravan and chalet sites should take place within existing site boundaries wherever possible. Schemes will not be permitted where they would result in an increase in the number of accommodation units, or where they would have an unacceptable impact on the local environment.
14. The proposal would amount to an extension of the existing static caravan park, as opposed to its upgrading or improvement. It would also result in additional units of accommodation and as stated above would have an unacceptable impact on the local environment. As such the proposal would be contrary to policies B5 and B6 of the Local Plan.
15. At the same time the scheme would result in the loss of the existing touring site and little empirical evidence has been submitted to demonstrate a need for additional static holiday caravans in the area. For instance whilst it is stated that the existing static caravan site caters for those seeking a higher degree of quiet and refinement away from the coast, little evidence has been submitted to demonstrate this. Whilst it is not a policy requirement to submit such evidence, given the conflict with policy and environmental harm that would result from the scheme, it would require strong evidence in the form of other material considerations to outweigh that harm and conflict.
16. The Appellant has referred to the appeal decision which relates to the existing static holiday site to the east. However it is clear from paragraph 10 of the Inspector's decision letter that in coming to his conclusions on the merits of the scheme he found that the proposed static caravan park would not have a significantly greater effect on the character and appearance of the area than the existing authorised uses on the site. At the same time the proposal involved the replacement of existing structures on "previously developed" land,

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which is permitted under policy RC1(4) of the Local Plan. Likewise the approved development at the red Lion PH has taken place on a "previously developed" site and is not subject to policy B6.

17. Conversely the current Appeal scheme would not replace any structures or hard surfaces on the land that benefit from either planning permission or a Certificate of Lawfulness. It has not been demonstrated that the site is "previously developed" and the proposal would cause serious harm to the character and appearance of the area. As such the schemes are not directly comparable.
18. The Council's Local Development Framework is at an early stage and so currently little weight can be given to it. Notwithstanding this the extracts from the *Options Consultation and Ambitions for Swale: Swale's Sustainable Community Strategy* documents submitted by the Appellant would not weigh in favour of a scheme because it would harm the character and appearance of the surrounding area and the SLA, even if it could achieve Green Tourism Accreditation.
19. Finally I have taken into account the letters written in support of the scheme, which indicate that the scheme would help support local businesses and provide affordable homes. However the scheme is for static holiday caravans not permanent homes and it has not been demonstrated that the community benefits arising from the scheme would outweigh those resulting from the existing touring caravan site and the harm that would be caused to the character and appearance of the locality. As such these factors do not outweigh the concerns outlined above.
20. I conclude that the proposal would seriously and unacceptably detract from the character and appearance of the site, the surrounding rural area and the SLA. It would also conflict with policies RC1, E1, E6, E9, B5 & B6 of the Local Plan, the NPPF, the GPGPT and the emerging Local Development Framework. Collectively and amongst other things these policies and advice encourage tourism and its associated economic and social benefits, whilst seeking to respect and enhance the character and appearance of the built and natural environments.

Elizabeth Lawrence

INSPECTOR

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Date: 1 May 2015

Planning Services
 Swale Borough Council
 41 Stone Street
 Faversham
 Kent
 ME13 8PH



Submitted via: Planning Portal

Dear Sir/Madam,

**RE: CHANGE OF USE FROM STATIC HOLIDAY CARAVAN SITE TO PERMANENT RESIDENTIAL ACCOMMODATION
 RED LION CARAVAN PARK, LONDON ROAD, DUNKIRK, KENT ME13 9LL**

Please find enclosed a planning application for a proposed change of use from a static holiday caravan site to permanent residential accommodation at Red Lion Caravan Park, London Road, Dunkirk, Kent ME13 9LL.

The planning application is supported by the following documents:

- Completed Application Form;
- Supporting Letter (this Covering Letter);
- Location Plan
- Relevant Planning Application Fee: £3850.00

This application for planning permission has been submitted via the Planning Portal. The application fee of £3850.00 will be paid separately via a cheque sent under separate cover.

Description of Proposed Development

The proposal seeks full planning permission for a change of use from a static holiday caravan site to static residential caravan site on behalf of the owner, Mr Horace Gaskin. This will allow the existing caravan units to be occupied on a permanent residential basis for 12 months of the year. No changes to the units or park layout are proposed as part of this application. The existing ten (10) twin-units caravans will remain on the site and will continue to utilise the existing access route that leads to London Road.

The Site and Surroundings

This application relates to land located at London Road, Dunkirk, Kent ME13 9LL (Refer to Figure 1). The site is located within the administrative area of Swale Borough Council and adjacent to the village of Dunkirk.



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The proposal site is currently occupied by The Red Lion Caravan Park, an existing static holiday caravan park. It is bounded to the south by Canterbury Road and accessed via a short access driveway. The eastern and northern boundaries are bordered by mature trees which shelter the application site from the elements and allow it to integrate with its surrounding settings more subtly. The caravan park comprises of ten (10) twin-unit caravans.

The site is located within the countryside to the east of Dunkirk Village and is in close proximity to a number of community services. The Red Lion public house and associated motel accommodation adjoins the application site to the west. A touring caravan site also operates on a small field to the west of Red Lion caravan park and directly to the rear of the public house. On the opposite side of the road are a few detached dwellings and a number of businesses including an agricultural and horticultural supply shop and local farm shop. The site lies to the east of the centre of Dunkirk village and is within easy walking distance of the local services established here such as Dunkirk Village School, a plant nursery, car sales and repairs and a bus stop. A footway runs along the northern side of Canterbury Road from the site to the main village services, providing safe and convenient pedestrian access.

From a planning perspective, the application site is within the built fabric of this settlement and the proposal would therefore be considered to support and strengthen the community. It will also be located on an existing previously-developed site.

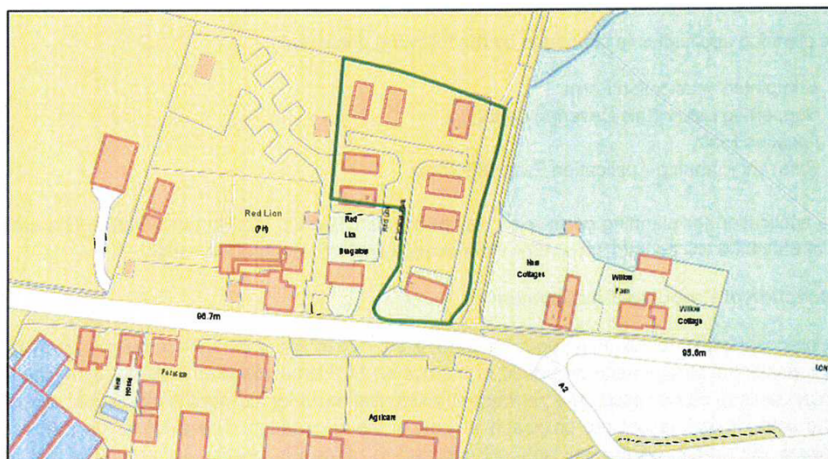


Figure 1: Location of Proposal Site

Source: Swale Borough Council Property Map

Planning History

Planning permission SW/05/1246 was granted on 3 July 2006 for "change of use from touring caravan site with caravan storage and maintenance to static holiday caravan site and demolition of workshop and toilet block" under appeal reference APP/V2255/A/06/2008142 in July 2006 and was subject to a number of conditions, in particular the following:

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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".*

More recently, a planning application (LPA ref 14/506434/FULL) was submitted to Swale Borough Council on 11 December 2014 for the removal of condition 5, on planning permission SW/05/1246. This was refused by the local planning authority on 02 April 2015 for the following reason:

- (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".*

Planning Policies

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is the Government's statement of planning policy and guidance which provides the basis against which development plan policies and development control decisions should be made by all local planning authorities in England.

The fundamental role of the NPPF is to deliver sustainable development. Paragraph 28 places a focus on supporting a prosperous rural economy by promoting "...the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship".

Paragraphs 47 and 49 of the National Planning Policy Framework (NPPF) state that:

47. *"To boost significantly the supply of housing, local planning authorities should:

 - Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
 - Identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements....."*
49. *Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".*

In accordance with the NPPF, Swale Borough Council are required to have a five year housing land supply plan and to be able to specifically allocate areas for development to deliver new homes. The latest published Annual Monitoring Report 2012-13 (published April 2014) indicated that the Borough

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had failed to demonstrate a five year supply of land for housing at that time. The next Annual Monitoring Report for the period 2013-2014 is due to be published in May 2015 and is currently therefore unavailable. However, the data within that Report will be taken from the Kent County Council Housing Information Audit for Swale. This was published in October 2014 and looks at the period 2013/14. It represents the most up to date Council assessment of the housing land supply within the Borough, as confirmed in a telephone conversation with Alan Best from your Planning Policy department. The Audit indicates clearly that, based on either the Sedgefield or Liverpool method of calculation, the Borough fails to demonstrate a five year supply of land for housing, being just 3.66 using the Liverpool method, and just 3.17 using the Sedgefield method.

Clearly therefore the Council continue to fail to be able to demonstrate the requisite supply of housing land as required by the NPPF. In accordance with Para 49 of the Framework therefore, housing control policies within the local development plan cannot be considered up-to-date. Consequently, this application must principally be determined in accordance with paragraph 14 of the NPPF, which promotes the *"presumption in favour of sustainable development"*. Such a presumption must endure for applications where the policies of the development plan are out of date, unless any effects of the proposal will significantly and demonstrably outweigh the benefits of the proposal, or other policies in the NPPF indicate that permission should be restricted. Neither is considered to be the case here. The site lies close to the village of Dunkirk with its associated facilities and easy and convenient pedestrian access to the village exists along Canterbury Road, where bus stops also allow access to bus services to Canterbury and Faversham. The proposal is therefore consistent with and supported by the NPPF, being sustainable development that, rather than being in conflict with other policies in the Framework, will *"widen opportunities for home ownership and create sustainable, inclusive and mixed communities"* (Paragraph 50). Indeed, the proposal will assist the Council in meeting its supply of housing land and therefore addressing the undersupply that currently exists.

Paragraph 55 of the NPPF states that housing should be located in rural areas where it will support and enhance or maintain the vitality of rural communities. The proposal site is located on the eastern side of Dunkirk Village and borders the Red Lion Public House and a number of other small rural based businesses. The change of use of the static holiday caravan site to permanent residential use would mean that future occupants could reside permanently on the site, establishing a permanent home which would in turn benefit the local community as it would support local businesses and promote a more established and longer term use for the site.

The proposed development is therefore considered to be in line with the principles set out in the NPPF, being sustainable and resulting in permanent residential use that will help support and maintain the local economy. It will also not have any visual impact as alterations or extensions are not proposed as part of the application. As such the proposal is considered to comply with national planning policy.

Local Development Plan

Any proposed development must be judged against the relevant Development Plan and other government planning policy and guidance. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 together require that planning applications should be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises the Swale Borough Local Plan Adopted February 2008. A number of these policies have been 'saved' following a direction by the Secretary of State in 2010. However, all precede the NPPF

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There are currently no identified area action plans for the village of Dunkirk, and no site specific policy exists within the Local Plan. Other policies relevant to the proposal within the Local Plan are limited in number and, due to the lack of a five year supply of housing land, all policies within the Plan that relate to the supply of housing are considered out of date in accordance with Para 49 of the NPPF. Policy H2 of the Plan does not therefore apply.

Policy RC3 of the Swale Borough Local Plan supports the provision of rural housing if "...the proposal should be of a form, scale and design that respects and where possible enhances the character of the settlement and its surrounding landscape" and that "...has the support of the local Parish Council". The proposal is for an existing site where the built form will remain and will not be changed as the existing caravan units are permanent.

Section 4.78 of the Local Plan makes an allowance for windfall sites and states that "during the plan period some housing proposals will come forward for sites not allocated in the Local Plan, which will be acceptable. It is normal practice for an allowance to be made for such windfall sites, which will count against the Structure Plan housing target. Section 3.107 states that "when formulating housing proposals for either an allocated or windfall site, the objective should be to promote a sustainable residential environment, including the use of sustainable construction techniques, and to ensure the efficient use of land". The proposal is considered to be consistent with this outcome.

Local Parish Council

Dunkirk Parish Council made representations to the planning application (SW/05/1246) in support of the removal of condition 5, which stated that:

"Dunkirk Parish Council support this application for removal of condition 5. .

This provides clear evidence of local support for the use of the caravans on site all year round.

Dunkirk Parish Council is currently in the process of producing the draft *Boughton and Dunkirk Neighbourhood Plan*. The local parish council issued questionnaires to every household in the locality during 2014 and are utilising this information to assist with preparing the plan.

The designated area for the neighbourhood plan has been approved by Swale Borough Council and is illustrated by the blue line in Figure 2 below. The application site lies within the designated area. The draft neighbourhood plan is at a very early stage as there exists no policy formation or strong lead from the public surveys as to the nature, location or context of future development within the area. The local parish council have only recently agreed a designated area for development and have yet to advise of future dates for the next stage in preparing the plan. Until the proposed plan and its potential aspirations and policies have been subject to local consultation, little weight can be attributed to the neighbourhood plan, in accordance with the guidance contained within National Planning Guidance and Paragraph 216 of the NPPF.

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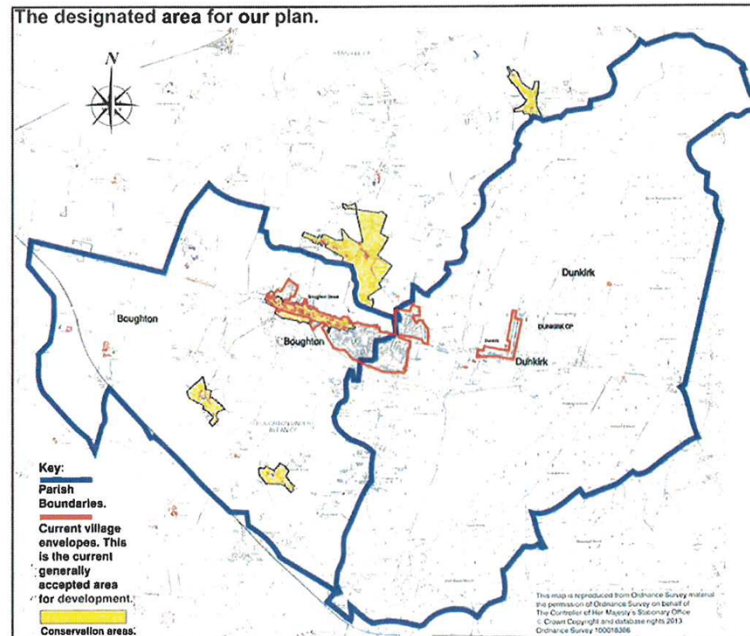


Figure 2 : Designated Area for Draft Boughton and Dunkirk Neighbourhood Plan

Source: <http://www.boughtonanddunkirkneighbourhoodplan.org.uk/about-the-plan>

Conclusion

This application to Swale Borough Council seeks full planning permission for the change of use of Red Lion caravan park from a static holiday caravan site to a static caravan site for permanent residential occupation.

Taking account of the lack of a five year housing land supply, and the absence of any draft or adopted neighbourhood plan, the presumption in favour of sustainable development applies. The site is considered to lie within the village of Dunkirk, enabling easy pedestrian access to local facilities and infrastructure, as well as bus services to nearby settlements. The site is considered to be sustainable. In addition, the Parish Council have previously indicated their support for the site being occupied on a year-round basis.

It is therefore considered that the proposal is in line with the National Planning Policy Framework and relevant local planning policies and should be approved.


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I trust that the information provided is sufficient to enable you to consider the application, however should you require any further details or clarification please do not hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to be 'Nick Laister'.

 **Nick Laister**
Senior Director

cc.

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Appeal Decision

Hearing held on 9 June 2015

Site visit made on 9 June 2015

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 28 July 2015

Appeal Ref: APP/V2255/A/14/2223765

Parklands Village Residents Association, Parklands Village, The Broadway, Minster on Sea, Sheerness ME12 2DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs M Mace (Parklands Village Residents Association) against the decision of Swale Borough Council.
 - The application Ref SW/13/1546, dated 16 December 2013, was refused by notice dated 14 February 2014.
 - The application sought planning permission for proposed construction of 160 holiday cottages without complying with a condition attached to planning permission Ref SW/87/1191, dated 17 February 1988.
 - The condition in dispute is No 2 which states that: *The chalet hereby permitted shall not be occupied between 2nd January and March 1 in any year.*
 - The reason given for the condition is: *As the area is considered unsuitable for permanent residential development.*
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refer to Policies CP1 and DM5 of the Swale Emerging Local Plan (Bearing Fruits) 2013. The Bearing Fruits document has been the subject of consultation and the Examination will begin in September 2015. The Council requested that significant weight should be given to these policies and I note that there was a very limited number of objections to Policy DM5 in particular. Given the stage that it has reached and noting that there were potentially significant objections to the rest of the document, I have given this only moderate weight.
3. The grounds of Appeal refer to a 'fall-back position' being open to the occupiers of Parklands Village to locate caravans on a temporary basis on the appeal site during the months of January and February. At the Hearing, the appellant confirmed that they were no longer intending to pursue this fall-back position. I have dealt with the appeal on this basis.

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Background and Main Issues

4. Parklands Village consists of 76 terraced and semi-detached single storey properties and they were built on the basis of planning permission for 160 holiday cottages which was granted for a larger site in 1988. Part of the land relating to the planning permission remains undeveloped. The properties were occupied from 2003.
5. The appeal site has a planning history which includes enforcement appeals relating to 58 of the properties and a planning appeal which were dismissed in 2010. The Council explain that the development was always intended for holiday accommodation to help improve the quality and quantity of that type of accommodation on the Isle of Sheppey. There is no limit on a maximum stay, so the accommodation could be occupied for the full 10 months. The planning permission and legal agreement requires the gates to be locked and services to be switched off during January and February, although I understand that services remain switched on.
6. The appellant is seeking to remove the disputed condition to allow 12 months occupancy. The Parklands Village Residents Association (PVRA) argues that Parklands Village has never been occupied as holiday accommodation, and that the standard of construction of the properties which are brick built suggests that the accommodation was only ever intended to be for permanent use. Whilst I accept that the occupants may have bought the properties on the basis that they could live there permanently, it remains the case that this is not what the planning permission or condition allows. Taking the above historical background into account, the main issues are:
 - a) Whether permitting the properties to be used as permanent residential accommodation would represent an unacceptable flood risk to the occupiers;
 - b) The effect of removing the condition on the stock of holiday accommodation and the tourist economy of the Borough; and,
 - c) Whether there are any other material considerations which mean that the appeal should be determined other than in accordance with the development plan.

Reasons*Flood risk*

7. Paragraph 100 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The appeal site is located within Flood Zone 3a; these areas have a high probability of flooding. The site is at risk from flooding from tidal and fluvial flooding. At the Hearing, the Environment Agency (EA) confirmed that the sea defences have been improved significantly and that the new shingle embankment is much higher than the original embankment. The Scrapsgate Drain flows to the south-east of the appeal site out to the sea and although the drain is cleared and managed on a regular basis, should this overflow, the appeal properties would not be defended from this.
8. The Flood Risk Assessment (FRA) submitted with the planning application classifies the properties as 'vulnerable' on the basis of their brick construction

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and that they were already in use as permanent residential accommodation. The EA do not agree with the conclusions in the FRA. Table 2 of the Framework's Technical Guidance states that 'Caravans, mobile homes and park homes intended for permanent residential use' can only be considered as highly vulnerable. The EA acknowledges the method of construction of the properties which were built to the relevant building regulations at that time, would be more robust than caravans located on sites adjacent. However, at the Hearing the EA confirmed that it would be unable to consider them as anything other than holiday accommodation in line with the 1988 planning. Based on the evidence before me, I therefore agree that there is no basis on which to apply the Exception Test as set out in the FRA.

9. The FRA indicates that as the primary source of flooding is tidal with improved sea defences the properties are therefore well protected and in addition that the highest tides are in March and September when the properties are already occupied. At the Hearing, the EA disagreed with this assessment and argued that the greatest risk is in the winter months, where low pressure can result in storm surges that may result in sea levels significantly higher than usual. The EA also indicated that due to recent modelling undertaken by them, spending on defences would be needed in future years, although I note nothing is planned immediately.
10. I note that the appellant refers to 1 in 6 homes being subject to flood risk. I acknowledge that the current occupiers of Parklands Village, who spoke at the Hearing, accept the risk associated with flooding and that their houses and lives are insured against flood risk. However, this may not be applicable to future occupiers either in terms of acceptance of risk or future levels of insurance.
11. I understand that there is now no Island flood siren warning system in place. The appellant refers to the occupiers of Parklands Village having signed up to the EA's Floodline Service, and although I was not provided with a copy, I understand that Minster Parish Council has produced an Evacuation Plan. In addition, the PVRA have developed a Flood Evacuation Plan and this is managed by the local occupiers themselves. The plan includes amongst other things, the provision of information on flooding to occupiers, sandbags to each property and vehicles to help move people off the site in case of flooding. The residents are also aware of who within Parklands Village would need some help to move out. I also accept that the Abbey Motel which some of the occupiers stay at during the winter months is also in the same Flood Zone, although I note this is slightly closer to higher ground and Flood Zone 1, than the appeal site.
12. The FRA states that the site could be affected by a breach in the Island's sea defences to a level which could result in approximately 2 metres of internal flooding within the properties. Despite their brick built construction, the buildings are single storey with eaves heights of around 2 metres and are not specifically designed to be flood resilient. Access to the loft of the properties via a pull down ladder is possible. However, there is no means of escape from the roof or proper ventilation within the roofspace and the EA confirmed that this would not be suitable as a safe refuge in the event of flooding. Notwithstanding the mitigation measures and plans in place, human failings and errors can and do occur, including failures in technology, illness, accidents,

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delayed departure and an understandable natural personal reluctance to move out rapidly.

13. I accept that the site did not flood in January 1953 when there was an example of severe flooding in the East of England, nor did it flood in recent winter months. Nevertheless, the risk of the tidal defences being overtopped or breach during an extreme tidal event remains. Having regard to the comments of the EA and the vulnerability of the occupiers, some of whom I was advised have health and mobility difficulties, I consider that to remove the condition would cause unacceptable risk from flooding to the occupiers of Parklands Village and it would be contrary to the provisions of the Framework in relation to flood risk.

Holiday accommodation and the tourist economy

14. The supporting text at paragraph 5.1.20 of the Bearing Fruits document refers to tourism being an important part of the local economy of Swale Borough. The Borough's principle tourism assets are referred to and this includes holiday parks and the Isle of Sheppey. Policy CP1 of Bearing Fruits amongst other things seeks to safeguard the Borough's tourism assets and Policy DM5 seeks to resist the permanent occupancy of caravans and chalets. Policy B5 of the LP seeks to retain existing tourist facilities, including holiday accommodation. Policy B7 of the LP relates to seasonal occupancy periods for holiday parks.
15. I accept that the properties have never been marketed as holiday homes and were purchased as freehold residences, although the majority of the occupiers at the Hearing were aware of the condition restricting the occupancy period when they purchased the property. The appellant also refers to the closure of the ferry link from Sheerness to Holland (the Olau Line) and that the properties were built after this and would have never have supported the tourism industry as a result. However, there is no doubt that the properties were only permitted as holiday homes and not permanent dwellings, nor is there any evidence before me to suggest that they could not be used as holiday accommodation.
16. I note that the number of bed spaces within the Borough which could be provided would be more than other tourist resorts such as Blackpool. At the Hearing I was referred to recent meetings between the local Member of Parliament for Sittingbourne and Sheppey and local caravan park owners. Although I have not been provided with details of the meetings, I understand that matters under discussion included occupancy rates, users of the properties not being holiday makers and the lack of entertainment facilities at some holiday parks making them a poor offer to tourists.
17. The brick built method of construction and appearance of the properties does differ from the neighbouring holiday accommodation at Meadow View for example, which are more akin to caravans and which are more common on the island. I understand that there are over 50 operational holiday parks on the Isle of Sheppey and the appellant indicates that the appeal site would only make a small contribution in terms of bed spaces. Nevertheless, whilst the layout also appears to be more akin to that within a residential development, the appearance and construction of the properties also makes a high quality contribution to the tourism offer on the Isle of Sheppey.

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18. I have been referred to park home developments at Leysdown, Pilgrims Retreat, Maidstone and Four Horseshoes Park, Graveney which are now occupied during 12 months of the year and which I understand are not built to the same type of construction as the appeal site. There was some discussion at the Hearing about what factors led to the change in the occupancy condition, some of the examples were clearly affected by the failure of the Council to take enforcement action, which is not the case here. I have not been provided with any further details in relation to the other examples in order to be able to make a comparison between them and the appeal proposal. As such, I am unable to give this weight in considering the proposal before me.
19. I was referred to a lack of any recent assessment of the tourism need within the Borough and that the Council's policy towards tourism has been in a similar form for a number of years. Nevertheless, the Council's strategy and policies in respect of tourism, including holiday parks remains in place and I have not been provided with detailed evidence to suggest that these are no longer appropriate.
20. The Council refer to the potential effect of removing the condition to allow 12 month occupation on other places which provide holiday accommodation. Taking into account the numbers of holiday parks within the area even if they are not constructed in the same manner as those within the appeal site, I agree with the Council that this would be likely to lead to further pressure for the removal of occupancy conditions at other holiday parks, which the Council would find very difficult to resist. This would undermine the Council's well established tourism strategy and the contribution that holiday parks on the Island make to the local economy.
21. For the reasons given above, I conclude that the removal of the condition would have an unacceptable effect of the stock of holiday accommodation and tourist economy within the Borough. It would be in conflict with Policies B5 and B7 of the LP and would be contrary to emerging policies CP1 and DM5 of the LP.

Other material considerations

22. Paragraph 47 of the Framework indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed needs for market and affordable homes. At the Hearing the Council confirmed that it was not able to demonstrate a five year supply of housing land, with a shortfall of 831 dwellings amounting to approximately 3.5 years supply. This would be a substantial and significant shortfall. The appellant argues that the Local Plan is out of date and that the accommodation in use as permanent residences is sustainable development.
23. The Framework identifies three dimensions to sustainable development – economic, social and environmental. The appellant refers to the lack of accommodation for the elderly and retired people within the Borough, including a waiting list for people for bungalow type accommodation. The proposal would bring a benefit in terms of meeting the social role by assisting in the supply of housing, including for smaller homes. I also accept that the occupiers of Parklands Village use the local facilities and spend money locally. The properties are also subject to Council Tax. The appeal site is within walking distance of shops and services and bus stops.

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24. In social terms, the appellant also refers to the properties being vulnerable to crime if the appeal site was closed during the months of January and February, and I accept that this would be of a serious concern to the occupiers. However, I have not been provided with any evidence to indicate that this would be a significant risk.
25. Whilst I note that the occupiers may be spending money over a longer period of time, it is not clear that the contribution would be more to the local economy than that gained through the use of the properties as holiday accommodation for 10 months. In addition, the proposal would be contrary to the Council's tourism strategy and would have a negative impact on the tourism economy. In respect of the environmental role, there is a significant risk in terms of flooding. I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

26. I have taken account of the effect on occupiers of the need to move from their homes during the winter months. I accept that some occupiers find it very difficult to move off the site during January and February for reasons of ill health for example and that others may choose to stay on the site. I also note that other occupiers of the appeal site do move away at this time. At the Hearing, there was discussion that if the appeal were to be dismissed, this would interfere with the occupiers right to a home, which comes within Article 8 of the European Convention on Human Rights. The right to a home is a qualified right where interference is permissible including in respect of public safety or the economic well-being of the country. Having regard to my significant concerns for public safety relating to flood risk and the effects on the tourism economy, I conclude that the interference that arises from the occupancy condition is limited and proportionate and does not amount to a violation of the human rights of the occupiers.
27. For above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

L. Gibbons

INSPECTOR

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APPEARANCES

FOR THE APPELLANT

Mrs M Mace	Parklands Village Residents Association
Mrs J Roullier	Parklands Village Residents Association
Mr J Burke	Constituency Manager for Gordon Henderson, Member of Parliament, Sittingbourne and Sheppey
Mr M Wood	Parklands Village Residents Association (Flood Committee)
Mrs P Abela	Parklands Village Residents Association (Chair)

FOR THE LOCAL PLANNING AUTHORITY

Mr M Goddard	Planning Consultant acting on behalf of Swale Borough Council
Mr J Byne	Flood Risk Officer, Environment Agency
Ms G Mitri	Planning Adviser, Environment Agency

INTERESTED PERSONS

Mrs M Brett
 Mr C McMahon
 Mr R Wickwar
 Mrs S Sage
 Mr A Wisdon
 Mr Hubbard
 Mrs M Crain
 Mrs M Hooper
 Mrs Baker
 Mr R Salt
 Mr V Guyver
 Mr J Pieri

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Statement to the Hearing by Gordon Henderson, Member of Parliament
supplied by Mr J Burke

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- 2 Statement to the Hearing by Mrs M Mace and Mrs J Roullier supplied by the appellant
- 3 Parklands Village Flood Evacuation Plan supplied by Mr Wood on behalf of the Parklands Village Residents Association
- 4 Flood Map – Defences (Minster) supplied by the Environment Agency