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## Appeal Decision

Site visit made on 11 April 2017

by **Kevin Gleeson BA MCD MRTPI**

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

Decision date: **11 May 2017**

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**Appeal Ref: APP/V2255/W/16/3165477**

**Harts Holiday Park, Leysdown Road, Leysdown ME12 4RG**

- 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 without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Park Holidays UK Ltd against the decision of Swale Borough Council.
  - The application Ref 16/503292/FULL, dated 20 April 2016, was refused by notice dated 13 July 2016.
  - The application sought planning permission to allow caravans and chalets on the site to be used for human habitation between 1 March and 14 February in the following year without complying with a condition attached to planning permission SW/11/1129 dated 11 November 2011 which itself was a variation of condition 2 of planning permission SW/08/0982.
  - The condition in dispute is No. 2 which states that: No chalets / caravans shall be occupied except between 1 March and 3 January in the following calendar year, and no chalet / caravan shall be occupied unless there is a signed agreement between the owners and operators of the Park and all chalet / caravan owners within the application site, stating that: a) The chalets / caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead to any person to believe that it is being used as the sole or main residence; and b) No chalet / caravan shall be used as a postal address; and c) No chalet / caravan shall be used as an address for registering, claiming or receipt of any state benefit; and d) No chalet / caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and e) If any chalet / caravan owner is in breach of the above clauses their agreement will be terminated and / or not renewed upon the next expiry of their current lease or licence. On request, copies of the signed agreement(s) shall be provided to the Local Planning Authority.
  - The reason given for the condition is: In order to prevent the chalets / chalet / caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
    - whether the condition is reasonable or necessary having regard to the effect of the proposal on the character and appearance of the area; and
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- whether the proposal provides appropriate mitigation measures in respect of the Habitat Regulations.

### Reasons

#### *Character and Appearance*

3. Permission is sought to allow caravans and chalets on the appeal site to be used between 1 March and 14 February in the following year. The existing condition allows occupancy between 1 March and 3 January of the subsequent year. Consequently, occupancy would extend from a 10 month period to an 11½ month period.
4. The character of Leysdown is that of a small and remote village which serves a holiday market. The village reflects the changing seasons of rural life, as quiet periods of the year when the holiday parks are not operating contrast with the activity of large numbers of tourists during the main holiday periods. The appeal site is outside of the existing development boundary but is within an area designated for holiday parks.
5. Policy E6 of the Swale Borough Local Plan, 2008 (the Local Plan) aims to protect the quality, character and amenity value of the wider countryside. Development proposals in the countryside will not be permitted except for limited reasons which do not apply in this case.
6. Policy B7 of the Local Plan prevents the use of holiday parks as a sole or main residence and limits occupation to seasonal occupancy periods of effectively 8 months. Policy B7 has been superseded and replaced by a corporate policy for holiday homes which supports applications to extend occupancy periods to 10 months. It is on this basis that Condition 2 was amended through application SW/11/1129.
7. Policy DM5 of the emerging Swale Borough Local Plan (the eLP) formalises the corporate policy on holiday park occupancy in planning terms. To protect the character of the countryside planning permission will not be granted for the permanent occupancy of caravans and chalets but where higher quality standards of holiday accommodation can be secured, permission will be granted to extend the occupancy of holiday parks to 10 months subject to a number of tests.
8. I have seen no evidence that the extension of occupancy at the appeal site to 10 months has led to complaints in terms of the operation of the holiday park. In the statement '*Seasonal and Holiday Occupancy Conditions for Caravan and Chalet Parks*' the appellant demonstrates the effectiveness of controls. Moreover, there is merit in the appellant's argument that as Condition 2 works effectively for 10 months it would work effectively for 11½ months. I also recognise that the appellant is seeking 11½ month occupancy to bring the park in line with other locations around the country. Accordingly I do not accept the Council's suggestion that the park would be used as a main residence and therefore I have no reason to believe that the suggested impacts would give rise to a requirement for additional social and community facilities. Consequently I do not consider that Policies H2 or Policy SP4 of the Local Plan which address proposals for new residential development and deal with the provision of new housing, or Policy CP3 of the eLP which aims to deliver a wide choice of homes, apply in this case.

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9. However, limiting the occupancy of holiday parks serves to highlight the changing character of the rural area throughout the year. It ensures that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Extending the period of occupation to 11½ months would alter the character of the local area and would not provide the respite which occurs with the 10 month occupancy period. It would therefore lead to a noticeable change in the rural character of the area in the quiet early months of the year.
10. The Council stated that the park accommodation has not been designed to the same standard as permanent residential accommodation in terms of private gardens, privacy and parking among other features. It argued that extending the occupancy period would effectively give approval to a standard of housing which does not meet the standard of other homes across the Borough. However, as a holiday park the standards required for permanent residential accommodation are not necessary.
11. Paragraph 28 of the National Planning Policy Framework (the Framework) supports economic growth in rural areas whilst Policy RC1 of the Local Plan indicates that proposals to help diversify the rural economy and provide new rural jobs and services will be supported. As well as direct benefits to the park itself the longer occupancy would bring economic benefits to the local economy as set out in the appellant's report '*Caravan Market Assessment – Swale*'. These elements count in favour of the proposal. However, there is no evidence before me that the local economy is currently suffering because of the 10 month occupancy limit.
12. The extension of the occupancy period by six weeks would change the character of the local area contrary to the aims of Policies E6 and SP1 of the Local Plan and ST1 of the eLP which together seek to protect the character of the countryside, respect local distinctiveness and maintain the individual character, integrity, identity and setting of settlements. Similarly the proposal would be contrary to the aims of Policy SH1 of the Local Plan and Policies ST3 and ST6 of the eLP which establish the locational strategy for both the borough and the Isle of Sheppey including restricting development outside the built-up area boundaries. The proposal would also be contrary to Policy E1 of the Local Plan in failing to reflect the positive characteristics and features of the locality and Policy SP5 which seeks to prevent the countryside from unnecessary development.
13. Most importantly, the proposal would conflict with Policy DM5 of the eLP to which I attach substantial weight given the stage which this policy has reached in the emerging plan. This is in line with the advice of paragraph 216 of the Framework. It clearly sets out the Council's approach to the occupancy of holiday parks and whilst not yet formally adopted policy has been endorsed by the Inspector examining the eLP. I find that the benefits of a longer holiday season do not provide the justification to allow the 11½ month occupancy period contrary to Policy DM5. Furthermore, to elevate the importance of the social and economic benefits advanced by the appellant would be in direct conflict with one of the core planning principles set out in paragraph 17 of the Framework, that planning should genuinely be plan-led.

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#### *Mitigation*

14. The Council argued that extending the use of the site from 10 months to 11½ months would give rise to harm to nature conservation interests requiring a contribution to towards the Strategic Access Management and Monitoring Strategy (SAMMS). In the absence of a contribution the proposal would be contrary to policies E1, E6 and E9 of the Local Plan and Policies CP7, DM14 and DM28 of the eLP which together aim to protect the natural environment and ensure that adverse effects on the integrity of sites subject to the Habitats Regulations are minimised and where necessary impacts would be mitigated through the SAMMS.
15. The appellant argued that the appeal site and its immediate environs are not directly associated with any identified areas under pressure and any additional recreational impact which might flow from the proposal considered would be negligible. However, on the basis of the evidence before me I consider that mitigation is required in this case. Accordingly the appellant was content to make the relevant payment and a draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted. However, as I am dismissing this appeal for other reasons I have not pursued this matter with the parties.

#### *Other Matters*

16. Both the appellant and the Council have made reference to various appeal decisions relating to occupancy conditions. I have carefully considered the situations which they relate to but their contexts differ from the case before me and therefore they do not lead me to a different view. I have also taken account of comments from interested parties but again, those comments have not proved decisive.

#### **Conclusion**

17. For the reasons set out above, I conclude that Condition 2 is reasonable and necessary in the interests of the character and appearance of the local area. Consequently, having considered all other matters raised, I conclude that the appeal should be dismissed and the condition retained in its current form.

*Kevin Gleeson*

INSPECTOR