

PLANNING COMMITTEE – 20 AUGUST 2020**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 20/501751/FULL			
APPLICATION PROPOSAL Variation of condition 5 to application SW/04/1344 (allowed on appeal) for extension and upgrading to Vanity Holiday Village with amendment to condition 5 to read: 'No caravan hereby permitted shall be occupied between 4th January and end of February in any year.			
ADDRESS Land Adjoining Vanity Farm And Now Part Of Harts Park Vanity Road Leysdown On Sea ME12 4LP			
RECOMMENDATION Grant the variation of condition subject to a Section 106 to secure SAMMS mitigation payment			
SUMMARY OF REASONS FOR RECOMMENDATION The extension of the occupancy season for the holiday park would accord with local policy requirements and the recent ministerial statement on the matter.			
REASON FOR REFERRAL TO COMMITTEE Cllr Tatton has called the application in for the following reason: educational needs, sewage pumping station already at capacity, nominal medical representation re GP surgery (there is only 1) nominal employment & local economy, poor & restricted public transport. The majority of holiday home occupiers bring their own fossil fuelled vehicles resulting in an adverse effect on the local climate and the only road into Leysdown on Sea & Warden is via the lower road A2500 & Leysdown Road B2331 which do not meet national standards and are subject to speeding.			
WARD Sheppey East	PARISH/TOWN Leysdown	COUNCIL	APPLICANT Park Holidays UK Ltd AGENT Rural & Urban Planning Consultancy
DECISION DUE DATE 23/07/20		PUBLICITY EXPIRY DATE 17/07/20	

Planning History

SW/04/1344 Extension and Upgrading of Vanity holiday Village. Refused - Allowed on appeal under reference APP/V2255/A/05/1178979 on 3/8/2005. The plans accompanying the application show access roads from the existing Holiday Park and a layout for 120 caravans together with a children's activity area, pool and paddling pool. Car parking is shown to take place between the caravans and a road layout connected to the existing park and a private right of way across the site are also shown. This was partly implemented through the laying of four concrete chalet / caravan bases in the north-western corner of the site and its lawful implementation confirmed through grant of a certificate of lawfulness under ref 17/503085/LDCEX - -see below.

SW/04/1344/CCB Compliance with condition (4) of planning permission SW/04/1344
Condition discharged

SW/04/1344/CCA Details of landscaping Condition (2) was discharged by the Council on 29.06.2010. This showed perimeter planting to supplement existing boundary planting consisting of whips 0.6 m high at 2 m centres. Planting within the site to be carried out in association with the installation of each tranche of caravan.

SW/11/1608 Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January) - Grant of Conditional PP

17/503085/LDCEX Certificate of Lawful development (existing) to confirm SW/04/1344 was lawfully implemented notwithstanding condition 4 being discharged after commencement of work - Approved

At neighbouring Harts Park - SW/11/1129 Variation of condition (2) of permission SW/08/0982 to allow the caravans and chalets on the site to be used for human habitation between 1st March and 3rd January in any year was approved on 11th November 2011.

1. DESCRIPTION OF SITE

- 1.1 The applicant purchased the site from the adjoining Vanity Farm with consent granted on appeal in 2005 for static caravan development. It *was confirmed that the appeal decision had been implemented through issue of a Certificate of Lawful development (existing) ref 17/503085/LDCEX.*
- 1.2 Currently the consent for the site permits a seasonal occupancy period of 1st March to 31st October in any year.
- 1.3 The application area extends to some 3.8 hectares as shown edged red on the accompanying location plan. There are currently no caravans erected on the application site.

2. PROPOSAL

- 2.1 The application seeks to extend the occupancy season of the park from 1st March to 3rd January in the following year therefore permitting occupation for an additional 2 months.
- 2.2 The application proposes the following variation in wording in line with the appeal decision for the wider Harts Park.
- 2.3 'No caravan hereby permitted shall be occupied between 4th January and end of February in any year'.
- 2.4 The application is only for a variation in condition to extend the opening season of the park and not for the extension of the park or the installation of any homes beyond which permission has already been granted.

3. PLANNING CONSTRAINTS

- 3.1 The site is located in Flood Zone 1, where the risk of flooding is considered to be low.

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) Paragraphs 83 and 84 National Planning Practice Guidance (NPPG)

The following policies from adopted Local Plan (2017) are relevant:
ST1 (sustainable development)

CP1 (strong, competitive economy)
DM3 (rural economy)
DM4 (new holiday parks and extensions)
DM5 (holiday park occupancy)
DM22 (the coast)
DM23 (coastal change management)
DM24 (conserving and enhancing valued landscapes)

5. LOCAL REPRESENTATIONS

5.1 7 notifications of objection have been received. All of the comments have been made on the basis of an understanding that the application seeks permission for an increase in the number of units. All the responders believe that the application is for new units, not the extension of the occupancy period of the existing ones. The issues raised are summarised as follows:

- The caravans will cause a noise issue.
- Adverse impact on wildlife
- The caravans will overlook into bungalows adjoining the fence line
- Additional noise from new caravans.

6. CONSULTATIONS

6.1 The Environment Agency has no objection to the proposal.

6.2 Kent Drainage and Water Management have no objection to the proposal.

6.3 The Environmental Protection Team has been consulted and I will update Members at the meeting.

7. BACKGROUND PAPERS AND PLANS

8. APPRAISAL

8.1 The NPPF recognises that planning policies should not just support but 'enable' economic growth in rural areas, in order to create jobs and prosperity, by taking a positive approach to sustainable new development (paragraph 83 and 84). This includes support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Such support includes supporting the provision and expansion of tourist and visitor facilities in appropriate locations.

8.2 Policy DM 5 of the local plan - The occupancy of holiday parks, states:

'In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*

3. *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
4. *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
5. *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.'*

- 8.3 Further to this, the housing secretary Robert Jenrick has just issued a written ministerial statement (dated 14.7.2020) outlining how councils should handle moves by holiday park operators to extend their working season. The statement advises that the operation of caravan and holiday parks in England beyond the usual summer season will be invaluable to parks as the sector begins to recover from the Covid 19 pandemic.
- 8.4 The statement says that authorities should consider the benefits of longer opening season times to the local economy as it recovers from the impact of Covid-19.
- 8.5 Holiday parks adjoining the application site already enjoy an extended seasonal period. Harts Park has consent for the season to run from 1st March until the 3rd January as granted in 2011.
- 8.6 SW/11/1129 Variation of condition (2) of permission SW/08/0982 to allow the caravans and chalets on the site to be used for human habitation between 1st March and 3rd January in any year - Approved 11th November 2011.
- 8.7 The site is now operated as part of and in conjunction with the Harts Holiday Park in the ownership of the applicant. The same operational parameters will apply to the application site. The applicant has advised that the variation of consent proposed will further assist in the continuing upgrading and improvement of holiday accommodation to the area and help both the operational effectiveness and competitiveness of the park as a whole.
- 8.8 The applicant has stated that the additional day over that expressed in the adopted policy, is *de minimus* and if applied without due regard to the existing circumstances would lead to the perverse situation of one part of the holiday park closing a day earlier than the rest. This is a valid consideration.
- 8.9 In accordance with Policy DM5, the site is not at risk of flooding. The proposal would not have a detrimental impact on the amenity and tranquillity of the countryside. The proposals would be in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area. The extension of occupancy would continue to be subject to planning conditions safeguarding the holiday accommodation use.
- 8.10 The site is located in close proximity to the Swale and Medway Marshes SPA and Ramsar site, and there is a likelihood that the increased occupancy of the proposed dwellings would increase recreational use of these sites, given the close proximity to this development. The Council is required to have regard to any potential impacts of development under the Habitat Regulations, and to ensure that developments mitigate against such impacts. A tariff is payable to put in place measures to mitigate against increased impacts on these areas. The applicant has committed to this and is in the process of preparing a 106 agreement to supplement the submission.
- 8.11 The proposal would therefore accord with the criteria of policy DM5.
- 8.12 The application has been called-

- 8.13 in to committee on the basis of the effect of the proposal on 'educational needs, sewage pumping station already at capacity, nominal medical representation re GP surgery (there is only 1) nominal employment & local economy, poor & restricted public transport. Furthermore the majority of holiday home occupiers bring their own fossil fuelled vehicles resulting in an adverse effect on the local climate & that the only road into Leysdown on Sea & warden is via the lower road A2500 & Leysdown Road B2331 neither of these roads meet national standards re footpaths, passing points, lighting & are both subject to speeding. With zero enforcement by KCC Police.'
- 8.14 Members' attention is drawn to the fact that permission for the site to be used for the stationing of static caravans has already been granted (for an eight-month occupancy period), and confirmed through the issue of a certificate of lawfulness, as outlined above. As such, the change being sought here – to extend the occupancy period by two months – would have limited impact on these matters as the development can already be fully implemented regardless, and certainly not sufficient impact to warrant possible refusal of the application.

9. CONCLUSION

- 9.1 The national and local policy stance on this matter is clear and therefore on the basis of the above, planning permission for the extension of the occupancy period of the park to allow 10-month occupancy should be approved.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining

the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required in this instance.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

This should be secured once the decision is made to grant planning permission but before the decision notice is issued.

10. RECOMMENDATION

GRANT Subject to the following conditions and the signing of a suitably-worded Section 106 Agreement to secure SAMMS contributions as set out in Paragraph 8.10 above):

1. The landscape works approved under application ref SW/04/1344/CCA, shall be carried out before any caravan hereby permitted is occupied or in accordance with a timetable to be approved in writing by the local planning authority.

Reason: In the interest of visual amenity.

2. If within a period of five years from the date of the planting of any tree or shrub in accordance with condition 1, that tree or shrub, or any tree or shrub planted in replacement for it, is removed or dies or becomes seriously damaged or diseased, another tree or shrub of the same species and size as that originally planted shall be planted at the same place unless otherwise approved in writing by the local planning authority.

Reason: In the interest of visual amenity.

3. Before any caravan hereby permitted is occupied or in accordance with a timetable to be approved in writing by the local planning authority, the drainage details approved under application ref SW/04/1344/CCB shall be implemented.

Reason: To ensure satisfactory drainage arrangements

4. No caravan shall be occupied except between 1st March and 3rd January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:
 - (a) The 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 any person to believe that it is being used as the sole or main residence; and
 - (b) No caravan shall be used as a postal address; and
 - (c) No caravan shall be used as an address for registering, claiming or receipt of any state benefit; and
 - (d) No chalet or 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 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.

Reasons: In order to prevent the caravans from being used as a permanent place of residence.

5. Any caravan that is not the subject of a signed agreement pursuant to condition 2 shall not be occupied at any time.

Reasons: In order to prevent the caravans from being used as a permanent place of residence.

(1) SCHEDULE

The Park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 4 of the planning permission; and
2. Hold copies of documented evidence of the caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and

6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no chalet or caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.

