

2.3 REFERENCE NO - 21/506426/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.		
ADDRESS Seafields Caravan Park First Avenue Eastchurch Sheerness Kent ME12 4JN		
RECOMMENDATION Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed temporary relaxation of the occupancy condition associated with the site from January to February 2022 reflects the government guidance in response to the Covid-19 recovery. Whilst this would ordinarily be contrary to the local plan, namely Policy DM5, the publication of the Written Ministerial Statement that encourages LPAs to consider such applications favourably and discourages enforcement action during this time, forms a material consideration to which significant weight is attached. On this basis the temporary consent would be considered acceptable subject to appropriately worded conditions being attached ensuring the occupation period reverts back to the standard 10-months.		
REASON FOR REFERRAL TO COMMITTEE		
Parish Council objection		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mrs Karen Handebeaux AGENT N/A
DECISION DUE DATE 28/01/22		PUBLICITY EXPIRY DATE 04/01/22

RELEVANT PLANNING HISTORY

SW/11/1284 - Variation of Condition 2 of planning permission SW/99/1158 to allow 10-month occupancy - Granted Decision Date: 03.02.2012

SW/99/1158 - Renewal of Planning Permission SW/94/443 for change of use of land to static holiday caravan park- Granted Decision Date: 07.01.2000

SW/94/0443 – Use of land as static holiday caravan park – occupation between 1st March and 31st October in each year - Refused
Decision Date: 20.07.1994

SW/05/0003 - Renewal of Planning permission SW/99/1158 for change of use of land to static holiday caravan park- Granted Decision Date: 01.03.2005

APPEAL HISTORY

SW/94/0443 – Use of land as static holiday caravan park – occupation between 1st March and 31st October in each year - Appeal Allowed
Decision Date: 12.07.1995

1. DESCRIPTION OF SITE

- 1.1 Seafields Caravan Park is an established holiday park within the context of the larger Eastchurch holiday park area, which is a designated Holiday Park under Policy DM5 of the Local Plan. The site measures approximately 0.36 hectares in size and it accommodates approximately 13 static holiday caravans. The site is landscaped and each plot is accessible via an internal estate road which runs through the middle of the site to the entrance gates.

2. PROPOSAL

- 2.1 This application is made under Section 73 of the Town and Country Planning Act 1990 for an amendment to condition 2 of application ref: SW/11/1284. This condition restricts occupancy of the holiday park to a ten-month period and does not permit occupation during the months of January and February – typical of the conditions applied to most holiday parks on the Island. The condition states:

“No caravan shall be occupied except between 1st March and 2nd January in the following calendar year and only where there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:

- a) The caravan is 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 a sole or main residence; and*
- b) The caravan shall not be used as a postal address; and*
- c) The address shall not be used for registering, claiming or for the receipt of state benefit; and*
- d) The caravan shall not 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, 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 shall be provided to the Local Planning Authority.’

- 2.2 The applicant seeks permission to allow the holiday park to remain open for the months of January and February of 2022 on a temporary basis. The temporary alteration to the occupancy restriction is being sought for 2022 only as a result of the Covid-19 pandemic. I am advised that several of the residents are in ill health and do not want to risk visiting younger family members during the months of January and February to reduce their risk of contracting Covid-19.
- 2.3 Owing to the nature of the application, the only matter relevant is the acceptability of altering the condition in the manner suggested and no other elements of the existing permission are for consideration.

- 2.4 The application has been made on the basis of the guidance issued by the Government in July 2020 (as amended), and which remains in place until 31st December 2022. This effectively offers encouragement to holiday park owners to submit Section 73 applications to allow parks to remain open in the closed season for this year only. It recommends that the Local Planning Authority should prioritise such applications and make early decisions and should consider the benefits of longer opening season times for a temporary period to the local economy as it recovers from the impact of Covid.

3. PLANNING CONSTRAINTS

- 3.1 The site constraints are as follows:

- The site is located within the SPA Buffer Zone
- The site is a Designated Holiday Park (DM5)
- The site falls outside of a built-up settlement boundary (ST3)

4. POLICY AND CONSIDERATIONS

- 4.1 S.73 Town and Country Planning Act 1990 (as amended)
- 4.2 National Planning Policy Framework 2021
- 4.3 Bearing Fruits 2031: The Swale Borough Local Plan 2017:
- ST1 Delivering sustainable development in Swale
 - ST3 The Swale Settlement Strategy
 - ST6 The Isle of Sheppey Area Strategy
 - DM4 New holiday parks or extensions to existing parks
 - DM5 The occupancy of holiday parks
 - DM14 General development criteria
 - DM19 Sustainable design and construction
 - DM28 Biodiversity and Geological Conservation
- 4.4 Written Ministerial statement and guidance issued by Robert Jenrick on 14th July 2020

5. LOCAL REPRESENTATIONS

- 5.1 No representations have been received.

6. CONSULTATIONS

- 6.1 **Eastchurch Parish Council** – Object to the proposal on the following grounds (summarised):
- A directive from Planning last year stated that the temporary suspension of enforcement for occupiers in caravan parks was not a grant of 12-month occupancy and was only due to the extenuating circumstances of Covid 19. It highlighted that this would not set a precedent for future years.
 - The recent applications from caravan parks seeks to use this as a means of providing 12-month occupancy.
 - Conflict with Appendix 2 of the Local Plan which states that there must be a signed agreement between the park and all caravan/chalet owners controlling occupancy.

- The addition of an extra two months will permit permanent occupation of holiday homes and in effect turn the sites into residential housing estates.
- Lack of control / enforcement to verifying that the owners are complying with conditions.
- Wider impact of allowing holiday parks to be used as permanent residential sites, the precedent this would set and resultant unacceptable impacts on rural areas.
- Poor location of the site for access to services / facilities and reliance on cars for journeys.
- Pressure on local infrastructure – e.g. schools and doctors.
- Impact on tourism offer.
- Additional highway impacts in winter months.
- Change of use from holiday status to residential is at the expense of other well established planning policies and should be resisted.
- Whilst there was every sympathy last year for the extreme circumstances that Covid-19 brought upon the National population, it was only on the understanding that this permitted extension was not permanent. Caravan Holiday Park users are aware of their responsibilities during the closed season which has already been extended to 10 months plus Christmas and New Year. There is a responsibility on these owners to ensure that they can return to their primary address during this period.
- Last year was unprecedented, but this year is not. There should be no need for the previous unprecedented situation to be extended to holiday parks this year.
- The economic benefits are tenuous at best.
- Sheppey has a unique position as an island in Swale, and also with regard to holiday parks. This relaxation of the rules is unwarranted and, in not understanding the nature of the island's vulnerability, this extension could see the loss of Sheppey as a rural respite.

6.2 **Natural England** – No objection, subject to the appropriate financial contribution being secured.

7. APPRAISAL

7.1 Policy ST3 of the Swale Local Plan 2017 sets out the settlement strategy for the borough. The application site is located in the countryside, and Policy ST3 states that development will not be permitted on countryside land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.

7.2 The National Planning Policy Framework supports and recognises the importance of economic growth through sustainable development. Holiday parks which are located on designated sites within the borough are considered to make a significant contribution to economic growth by bringing employment to the area and the existing sites are considered to have positive impacts upon trade and hospitality within Swale by encouraging local tourism to the area – as reflected under Policy CP1 of the Local Plan. Policy DM4 of the Local Plan promotes the use and the upgrading, improvement and extension of the existing designated holiday park sites in the countryside, subject to the occupancy restrictions set out in Policy DM5 of the Swale Local Plan 2017.

7.3 In this case, whilst Seafields Caravan Park is located in the countryside, as one of the existing designated holiday park sites, its use, retention and improvement is supported under Policy DM4. However, in line with all of the holiday parks in the borough, its use is subject to the occupancy restrictions set out in Policy DM5. Members will be aware that

the Council has consistently applied and defended these seasonal restrictions to prevent the ability for holiday parks to operate over a 12 month period, to reduce the likelihood that the parks would be used as main residences, to protect the tourist offer on the Island, and to provide a period of tranquillity in rural areas where most parks are located.

- 7.4 This application seeks to allow the park to remain open during January and February 2022. This would ordinarily be contrary to local plan policy and would not be acceptable in policy terms. However, due to the change in circumstances brought about by the Covid-19 pandemic, the government has issued a Ministerial Statement which encourages Local Authorities to support the extension of holiday park operating periods to allow them to operate beyond the usual holiday season on a temporary basis, in spite of any planning conditions which may limit their periods of opening. The temporary relaxation of the planning restrictions is identified as playing a vital role in helping local businesses to recover from the periods of economic hardship experienced when the parks were not allowed to operate.
- 7.5 The statement says that where local planning authorities are considering an application to vary relevant planning conditions to allow a holiday park to operate outside of the normal opening season, they should consider the benefits of the longer opening season on the local economy as it recovers from the impact of Covid-19. With regards to taking enforcement action against any breach of condition, the statement says that, given the current situation, whilst local planning authorities must have regard to their legal obligations, they should not seek to undertake planning enforcement action which would unnecessarily restrict the ability of caravan and holiday parks to extend their open season. The statement further advises that careful consideration should be given to some circumstances, such as where sites are subject to winter flood risk. However, Seafields is not located in an area of such risk.
- 7.6 In light of the government guidance, which is a material consideration and should be afforded significant weight, it is necessary to weigh up the economic benefits of the proposal against the potential negative impacts of temporarily extending the holiday park's opening season.
- 7.7 With regards to the potential benefits of the proposal to the local economy, the two-month extension to the opening season will result in a greater footfall to the local area which has the potential to benefit local businesses, including shops and restaurants within nearby towns and villages. The proposal is also likely to aid the economic recovery of the park following a period of uncertainty owing to the various lockdowns and restrictions on travel, which will have impacted annual income levels.
- 7.8 With regards to the potential negative impacts of the proposal, I note the comments of the parish council regarding their concerns as to the potential pressure on local medical facilities, schools and roads. I also note the concerns regarding the potential for the caravans to become permanent residential housing – and that this is already occurring on some parks. The issue of the occupancy of some parks in breach of planning conditions is a wider planning matter that the Council has the ability to control through enforcement action. I do not consider that the additional two-month period for this year only would cause any unacceptable neighbouring amenity impacts, not any unacceptable highways impacts. As such, and taking into account the very short-term nature of the application and the clear encouragement given by the Ministerial Statement, I consider that the variation proposed is acceptable.
- 7.9 Members will also be aware that by the time this application is considered by the Planning Committee, much of the additional occupancy period sought will in fact have

passed. Although the application was submitted in early December, due to the timing of the application submission and the lead-in timescales to report this to Planning Committee following receipt of the parish council comments, it has not been possible to report this to an earlier committee.

The Conservation of Habitats and Species Regulations 2017:

- 7.10 The application site is located approximately 3.5km from the Swale Special Protection Area (SPA) and Ramsar sites. The SPA provides habitat for wintering birds, which suffers from recreational disturbance from visitors. As a result of this, applications for residential development, including holiday park proposals and the increase to occupancy periods would ordinarily be required to make a financial contribution to manage these impacts through the Council's established SAMMS strategy.
- 7.11 In this case, Natural England has provided comments and refer to need for a financial contribution to manage the impacts. The comments also set out that it is for the LPA to determine whether significant effects would occur. As a result, an assessment under the Habitats Regulations has been conducted below.
- 7.12 The coastline of North Kent encompasses three Special Protection Areas (SPAs): the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA and the Swale SPA. They are classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically important network for birds on migration.
- 7.13 All three sites listed above are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). For clarity, and the purpose of this assessment, 'European Sites' refers to both the SPA(s) and Ramsar Site(s). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity.
- 7.14 Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites. Further studies suggest that similar impacts are likely from caravan / holiday park sites.
- 7.15 The site is an established holiday park that operates under a 10-month opening / occupancy season. The application seeks temporary permission to allow occupancy of the holiday park for an additional 2-month period for this year only, and not on a permanent basis. The application is specifically in response to Government guidance to assist holiday parks in light of the Covid pandemic.
- 7.16 The applicant has not provided any evidence to demonstrate whether the proposal is likely to result in significant effects on these sites. However, the site is located approx. 3.5km from the SPA and given that this application only seeks an extension to the occupancy of the park for a 2-month period for this year only, it is not considered that the proposal would result in any likely significant effects on the European sites, and mitigation is not required (which would require an Appropriate Assessment). Further, the guidance provided in light of the Written Ministerial Statement discourages enforcement action relating to such sites in the wintering months of 2022.

7.17 On this basis, the application can be screened out under the HRA process and a financial contribution is not sought as mitigation.

8. CONCLUSION

8.1 Although the principle of the proposal to extend the occupancy period of the holiday park beyond the usual 10-month restriction would ordinarily be contrary to policy DM5 of the Swale Local Plan 2017, the consent which is being sought is of a temporary nature and would be in accordance with current ministerial guidance. On this basis the temporary consent is considered acceptable subject to appropriately worded conditions being attached. These are set out below.

9. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

- 1) The occupation of the caravans at Seafields Caravan Park during the period between 3rd January 2022 and 28th February 2022 shall be for this specified temporary period only, and this planning permission shall cease to have effect on 1st March 2022. With effect from 1st March 2022, the occupancy of the caravans shall be subject to the conditions imposed upon planning permission ref: SW/11/1284. 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 caravan is 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 a sole or main residence; and
 - b) The caravan shall not be used as a postal address; and
 - c) The address shall not be used for registering, claiming or for the receipt of state benefit; and
 - d) The caravan shall not 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, 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 shall be provided to the Local Planning Authority.

Reason: To prevent the permanent year-round occupation of the park, which would be contrary to Policy DM5 of the Swale Borough Local Plan 2017.

- 2) Any caravan that is not the subject of a signed agreement pursuant to condition 1 shall not be occupied at any time.

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

- 3) The owners or operators of the Seafields Caravan Park shall at all times operate the Park strictly in accordance with the terms of the Schedule attached to the decision notice of application SW/11/1284.

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

INFORMATIVES

N/A

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 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.

