

2.11 REFERENCE NO - 14/502304/FULL			
APPLICATION PROPOSAL			
Variation of condition 2 of T/APP/V2255//84/024617/P2 to extend occupancy from 8 months to 10 months			
ADDRESS Myrtles Horseshoe Caravan Park Bell Farm Lane Minster-on-sea Kent ME12 4JB			
RECOMMENDATION – Grant with conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
Variation of condition to allow for 10 month holiday occupancy is in accordance with Council’s new corporate policy for holiday homes and PoliciesDM3 (Rural Economy), DM4 (New Holiday Parks and Extensions) and DM5 (Occupancy of Holiday Parks) of the emerging Swale Borough Local Plan, Part 1, ‘Bearing Fruits 2031’.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Mrs Rosemary Shiel AGENT HCMC
DECISION DUE DATE 05/08/15	PUBLICITY EXPIRY DATE 14/07/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
-SW/83/476	Extension of caravan site for 20 caravans	Refuse	5/02/1985
SW/84/970	Established Use Certificate for 20 caravans	Refuse	09/11/1984
T/APP/V2255/A/ 84/018360/P2 & 024717/P2	Appeal to Secretary of State in respect of refusal of SW/83/476 & SW/84/970 in respect of conditional permission for the extension of caravan park by 20 caravans	Appeal Allowed	21/03/1985

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 This site n the rural area of the Isle of Sheppey, one mile to the east of Minster, consists of an ‘L’ shaped caravan site, 0.6ha in area, is located on the south side of and with an entrance onto Bell Farm Lane. The North coastal shore of the island, part of the designated North Shore SSSI, is located some 100m to the north.

- 1.02 Horseshoe Caravan Park is one of the smaller caravan parks on the island and presently has around 50 pitches consisting mainly of park homes, has a staff bungalow and a club house both located on the site.
- 1.03 The layout of the site is typical for its type consisting of serviced concrete hard standings positioned within grassed pitches and metalled service roads and parking areas. The site benefits from a dense tree and hedge screen with intermittent mature hedge and tree planting internally.

2.0 PROPOSAL

- 2.01 Condition 2 of the planning permission granted on appeal on 21st March 1985 for an extension to the holiday caravan park limited the use of the caravan site to 8 months in any year by prohibiting occupation between 1st November and 28th February in any one year. This application seeks to vary this condition to allow for occupancy for up to 10 months in any calendar year in line with the occupancy restrictions that are now in place in respect of other caravan sites in Bell Farm Lane and across the Island.
- 2.02 Other than the variation of the occupancy condition, no other alterations to the operation of layout of the caravan site is sought in this application

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.6ha	0.6ha	Nil

4.0 PLANNING CONSTRAINTS

- 4.01 There is a Tree Preservation Order on a group of trees at Kozy Nook, adjacent, but these would not be affected by this proposal.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) was adopted on 27 March 2012 and became a material consideration to be taken into account in decision making.
- 5.02 Planning law requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF acknowledges that some development plan policies will need to be updated to take into account some of its provisions, and this is being undertaken through the emerging Local Plan.

- 5.03 The adopted development plan is the Swale Borough Local Plan 2008. The transitional arrangements for the NPPF mean that for the twelve months to 27 March 2013, decision makers could continue to give full weight to relevant policies in the Local Plan, even if there is a “limited” degree of conflict with the NPPF.
- 5.04 After 27 March 2013, however, weight can still be given to the 2008 Local Plan policies according to their degree of consistency with the NPPF (the closer the fit, the more weight may be given).
- 5.05 While most of the draft development management policies in the emerging “*Bearing Fruits*” document seem broadly consistent with the NPPF, it does raise the bar in terms of needing to ensure that plans were positive and proactive in terms of providing for development through:
- positively seeking opportunities to meet the development needs; and
 - Meeting objectively assessed needs unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 5.06 Each of the “saved” Local Plan policies (as listed in the back of *Bearing Fruits*) was assessed in terms of its compliance with the key provisions of the NPPF. The wording of most of the Local Plan (2008) policies is quite positively and broadly compliant with the more detailed provisions of the NPPF – including policies E1, E6, and B6 as noted below.
- 5.07 Policy E1 of the adopted Swale Borough Local Plan 2008 seeks to ensure that all development proposals, amongst others, be well sited and of a scale, design and appearance that is appropriate to the location and cause no demonstrable harm to local amenity. Policy E6 aims to prevent unnecessary and unjustified development within the countryside of the Borough.
- 5.08 E19 of the Local Plan focuses on design, specifically, and comments that all development proposals should enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening the sense of place. The policy wording continues to state that new development should be appropriate to its context.
- 5.09 Policy B6 of the Local Plan states that permission will not be granted for new caravan or chalet parks outside of the existing designated holiday park areas. It does, however, state that proposals to improve and enhance existing facilities or to upgrade the quality of existing tourist accommodation will be supported.
- 5.10 Further to this; Policy B7 states that any planning permission for new or redeveloped holiday parks will be subject to a planning condition and / or legal agreement to restrict occupancy to March – October, and an additional 11 day Christmas / New Year period.

- 5.11 However; policy B7 has been superseded and replaced by the Council's new corporate policy for holiday homes. It allows for occupation of the chalets / caravans between March and December, and the 11-day holiday period, and firmly establishes the principle of approving applications such as this. The above conditions and text extracts from the corporate policy, and the discussion below, clearly illustrate the Council's revised position on the matter.
- 5.12 The Local Development Framework Panel's agreement, on 21 June 2011, reviewed the previous policy standpoint in regards to the occupancy restrictions on the Borough's holiday parks, and agreed to make it Council corporate policy to support applications to extend their occupancy periods from eight to ten months.

The report put before the LDF panel commented:

"This report outlines a proposed change in policy in respect of holiday homes occupancy periods. The review is in response to a request from the Sheppey Local Engagement Forum to re-examine the occupancy conditions on holiday homes in the Borough. It is argued that this extension in occupancy will lead to investment and improving quality of the holiday parks by the operators and it will deliver tourism benefits and support for the local economy.

Following discussions with the holiday park operators, a new policy which would enable holiday homes to have extended occupancy periods from the current 8 months to 10 months has been drafted whilst ensuring safeguards, as far as possible, that holiday homes should be used as second homes rather than as permanent dwellings. A set of conditions and obligations which would be attached to any planning permission...

It is considered that these safeguards will ensure that the holiday homes are retained as secondary holiday homes and do not become the main residences of their occupiers. It should be noted that the current 8 month occupancy does not insist on any of these safeguards so people can stay for the whole 8 months and use it like a permanent home, which does not add as much to the local economy as lots of short holidays."

6.0 LOCAL REPRESENTATIONS

- 6.01 Swale Footpaths Group comment that the submitted drawings are unclear whether the nearby public footpath would be affected. (This application is for a longer occupancy period and no development is proposed that would affect the path.)

7.0 CONSULTATIONS

- 7.01 Minster on Sea Parish Council: objects to the planning application: reasons given are concern that this will set a precedent and lead to misuse through illegal permanent occupation. The Parish Council reiterates its previous view that construction is inadequate for all year round occupation.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 There is no recent planning history for this site . A copy of the Inspectors decision letter of 21st March 1985 is attached for information.
- 8.02 Of particular relevance, however, are the following applications, all of which have granted 10-month occupancy at holiday parks on the Island:
- SW/14/0405 (Vanity Holiday Park);
 - SW/13/0319 (Vanity Holiday Village);
 - SW/13/1102 (Redcot Caravan Park);
 - SW/13/0330 (Warden Bay Caravan Park);
 - SW/12/0358 (Lazy Days);
 - SW/12/0024 (Plough Caravan Park); and
 - SW/12/0080 (Sheerness Holiday park), amongst others.

9.0 APPRAISAL

Principle of Development

- 9.01 The Council has, historically resisted applications to extend the occupancy periods at the various holiday parks on the Island and this has been reflected, until recently, in Saved Policy B7 of the Local Plan adopted 2008 that required any planning permission for new or redeveloped holiday parks to be subject to a planning condition/legal agreement to restrict occupancy to March – October with an additional 11 day period allowed to accommodate occupancy during the Christmas and New Year period.
- 9.02 However, in view of the decline in the tourist industry, it was considered appropriate to review this stance in respect of restrictive conditions to caravan parks. Therefore a proposal to support applications seeking to extend holiday park occupancy from 8 to 10 months was put before, and agreed by the Local Development Framework panel on 21 June 2011. Policy B7 has now been effectively superseded by the Council's new corporate policy for holiday homes. This allows for occupation of the chalets / caravans between March and December, and the 11-day Christmas period, and firmly establishes the principle of approving applications such as this (as too have the previous approvals noted at 8.02, above).

10.0 Local Impacts

- 10.01 No physical alterations to site are being proposed and the layout and the number of caravans will remain the same. All that is proposed is to extend the operational period of this holiday site from 8 months to 10 months in any one calendar year to reflect the occupancy extensions that have been allowed to other holiday caravan parks on the island.

- 10.02 Though the Parish Council have raised an objection to this proposal it would appear to constitute an objection in principle with no tangible reason given for this other than it would set a precedent, and reiteration of a previous view that the site is inadequate for all year round occupation.
- 10.03 The principle of the use was established by the appeal decision in 1985 which allowed the use of the site for up to 50 holiday caravans. In this respect, no change is proposed and the use, as such, remains authorised. Permitting this holiday caravan park to remain open for a period of 10 months a year would not set a precedent as this is now become a standard period approved by this Authority on a number of caravan sites on the Island. To match this, the applicant is requesting consent to remain open for 10 months a year and not all year as maintained by the Parish Council.
- 10.04 Use of the site as a holiday park for an additional two months in every year would not on balance generate any adverse impact upon the locality or the wider island or materially intensify the use of the site for the additional two months it would remain open. The two month non-operational period under the current proposal would retain the rural unspoiled character of the local countryside during the winter months, provide a break for local full time residents thereby assist in maintaining their residential amenity. Conditions can be put in place requiring the caravans only to be used as holiday accommodation for the 10 month period to ensure that they do not become permanent residential dwellings. As such, the impact upon the local area during the additional month should, therefore be minimal.
- 10.05 Suitably conditioned to restrict occupation to holiday use, the proposal would reflect current holiday occupancy periods extant on the island and comply with guidance contained within paragraph 28 of the NPPF in respect of supporting sustainable growth in rural areas; the Council's new corporate policy for holiday homes; PoliciesDM3 (Rural Economy), DM4 (New Holiday Parks and Extensions) and DM5 (Occupancy of Holiday Parks) of the emerging Swale Borough Local Plan, Part 1, 'Bearing Fruits 2031'.

11.0 Rights of Way

- 11.01 The comments of the Swale Footpaths Group appear to take the form of an informative advising that the public right of way located to the north of the site should remain unobstructed.

12.0 CONCLUSION

- 12.01 This application pertains solely in respect of the variation of condition 2 of the planning permission allowed on appeal by the Inspectors decision dated 21st March 1985 in respect of the extension of the occupancy period of the holiday caravan park by 20 caravans to total 50 caravans and does not pertain to any other development.

12.02 The proposal to support applications seeking to extend holiday park occupancy from 8 to 10 months was agreed by the Local Development Framework and supersedes Policy B7 of the Local Plan adopted 2006, clearly establishing the principle of such proposals.

12.03 Use of the site as a holiday park for an additional two months in every year would not intensify the use of the site and the rural unspoiled character of the local countryside during the winter months would be retained and the residential amenity of full time residents maintained.

12.04 Taking the above into account I recommend that planning permission should be granted.

13.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) No chalets or caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no chalets or caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet or caravan owners within the application site, stating that:

(a) The chalets or 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 chalet or caravan shall be used as a postal address; and

(c) No chalet or 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 chalet or 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 chalets or caravan from being used as a permanent place of residence.

- (3) Any chalet or 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 chalets or caravan from being used as a permanent place of residence.

- (4) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

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

SCHEDULE

The Park operator must:

1. Ensure that all chalet or caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the chalet or 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 chalet or caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the chalet or caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the chalet or caravan users at the park office; and
7. Ensure that each chalet or 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 this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

APPENDIX 1

D/443/HAS/P

Department of the Environment and
Department of Transport

Common Services

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Your reference
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T/APP/V2255/A/84/018360/P2
T/APP/V2255/A/84/024617/P2
Date 21 MAR 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEALS BY MR LARMAN AND MRS A WARD
APPLICATION NOS: SW/83/476 AND SW/84/970 (Case 2209)

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against the decisions of the Swale Borough Council, to refuse planning permission for an extension to a caravan park for 20 caravans at Horseshoe Caravan Park, Bell Farm Lane, Minster, Sheppey. I held a local inquiry into the appeals on 5 February 1985.

2. The application by Mr Larman, under references SW/83/476, was refused planning permission on 24 January 1984. Subsequently the Horseshoe Caravan Park, including the appeal site, was purchased by Mrs Ward. On 15 February 1984 an Established Use Certificate in respect of the appeal land was granted by the Borough Council in the following terms:-

It is hereby certified that the use of the above land for the stationing of holiday caravans was on 15 February 1984 established within the meaning of paragraph (a) of Section 94(1) of the Town and Country Planning Act 1971.

In view of the changed circumstances represented by the Established Use Certificate, Mrs Ward made a further planning application, under reference SW/84/970, which was refused by the council on 9 November 1984. Mr Larman's application was identical in substance to that made by Mrs Ward. Mr Larman therefore saw no reason to proceed with his appeal which was withdrawn on his behalf at the opening of the inquiry and I therefore intend to take no further action on it.

3. I have inspected the site and the surrounding area and have considered all the evidence given at the inquiry and in the written representations. As a result I have come to the conclusion that the principal issues which I have to determine are firstly, whether or not the proposal would normally be acceptable in the light of local and national planning policies and secondly, if not, whether there are special circumstances in this case which would justify a grant of planning permission.

4. Horseshoe Caravan Park is situated approximately one mile east of the village of Minster and about 100 m inland from the north coast of the Isle of Sheppey. The caravan park, excluding the appeal site, extends to some 0.6 ha and has the benefit of planning permission and a site licence for use as a caravan site. It is developed as a static holiday caravan park which includes ancillary buildings and a house occupied by the appellant. There are about 50 caravans on the land, all of which are fully serviced and most of which are owned by individuals who pay a ground

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rent to Mrs Ward. The appeal site is a roughly rectangular tract of land, about 0.41 ha in area, which extends southwards from the western end of the existing caravan park. It falls quite steeply from east to west and is separated on the east and south sides, by hedgerow of varying height and density, from open agricultural land which rises eastwards towards Bell Farm Lane. Along the west side of the site there is a brook and a well-grown copse, beyond which there is a cottage known as Kozy Nuke and what appears to be an indoor riding school standing in pastureland. At the time of my site visit there was some evidence of tipping in the form of clay and rubble on the land. There was one static caravan and 3 concrete caravan bases on the site. Some planting of very young conifers had been carried out to reinforce the hedge on the east boundary.

5. The appellant maintained that the proposal would not harm local amenity and would conform to planning policy. Attention was drawn to the lack of complaints over the period of 20 years during which the site had been in use for the proposed purpose and the absence of any third party objectors at the inquiry. No enforcement action had been deemed necessary by the council. Planning permission would enable a site licence to be issued, which would ensure proper control of the caravan park, to the benefit of the local community. If this appeal was not allowed the site might well be put to unregulated uses which would be less desirable than the appellants' scheme.

6. Policy TR2 of the Structure Plan did not totally preclude the proposal and a previous Inspector in allowing an appeal (T/APP/5282/A/81/09849/G5) and granting planning permission for the change of use to a static holiday park of land at the rear of Hazledene, Fourth Avenue, Eastchurch, Sheppey, had recognised that each site must be considered on its merits. Caravan standings had been lost by cliff erosion of Lazy Days and Song of the Sea caravan parks in the vicinity of Horseshoe Caravan Park and it would be within the spirit of Policy SF of the Draft Local Plan to make up these losses on the appeal site. It was argued that Structure Plan Policy RS4 was intended to restrict development in hamlets and rural settlements and therefore was not applicable to the appeal site which was in an established holiday area. The proposal would not breach Policies CCL and CC2 of the Structure Plan because the site was made up land and unsuitable for agriculture. The appellant contended that the site was not representative of the Kent countryside, had no historical interest, was not free of urban intrusion, and by virtue of the lie of the land and surrounding development would not detract from the scenic quality of the coastline. In these circumstances the proposal would not be at odds with Structure Plan Policies CC6 and CCL1. Not all existing caravan sites in the neighbourhood were within the area allocated for such uses on the Town Map.

7. The local planning authority outlined the planning history of Horseshoe Caravan Park and the appeal site and rehearsed paragraphs 7, 8, 9 and 10 of Development Control Policy Note 8. They relied upon the policies of the approved Kent Structure Plan set out in the grounds of refusal and explained that the site was outside the area allocated on the Queensborough, Sheerness and Vicinity Town Map for holiday camp use. Policy SF of the Draft Sheerness, Queensborough and Minster Local Plan (published for public consultation in August 1984), referred to in ground of refusal vi. stated:

New static caravan or chalet sites or extensions to existing sites will not normally be permitted outside the urban areas. Exceptionally, where land is lost through cliff erosion, permission may be granted for small areas of land in replacement provided that they adjoin the site concerned and are not subject to any overriding planning objection, including the impact on the landscape or on residential property.

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The council also mentioned other provisions of the Draft Local Plan relevant to static caravan and chalet sites. They submitted that the Structure Plan policies designed to control further caravans sites in areas where saturation point had been reached, to prevent unjustified sporadic development in rural areas, to prevent unnecessary encroachment on productive or potentially productive agricultural land and to prevent development likely to intrude upon landscape areas, features of interest or the undeveloped coastline, were all relevant and afforded clear-cut objections to the proposal. The council conceded that the site was not prominent but it was nevertheless visible from the surrounding, generally unspoilt, countryside and the proposed use would be intrusive by virtue of appearance, noise and disturbance upon the amenity of Kozy Nuke. If permitted the development would appear as an arbitrary extension of the caravan park, beyond its natural boundaries, into the open countryside.

8. I accept that Mrs Ward's scheme would not be particularly obtrusive in its impact upon the environs of the site and I agree that the land offers little agricultural potential. However, in the light of the Structure Plan policies, the provisions of the Town Map and the Draft Local Plan, I am in no doubt that the site lies outside any area within which the stationing of caravans would normally be acceptable. The site does not adjoin the caravan parks in the vicinity which have lost standings by erosion and I do not therefore consider that the development would constitute an exception as provided for by Policy SF of the Draft Local Plan. I have studied the planning permission granted on appeal under reference T/APP/A/81/09849/G5, but I do not consider that the circumstances of that case nor any of the other planning matters raised by the appellant are sufficient to show that the development would normally be acceptable. Which brings me to the second principal issue which I have identified in this case.

9. The council said that the existence of an established use of the site for the stationing of caravans gave no entitlement to such use, which could only be gained by the granting of a site licence. A site licence could only be issued if the land had benefit of planning permission. The council quoted paragraphs 1(1) and 3(3) of the Caravan Sites and Control of Development Act 1960. There was no action which the council could reasonably take as Planning Authority to secure the cessation of the use of the site but it was open to them as the Environmental Health Authority to act in the absence of a site licence. The service of a discontinuance order was unnecessary and inappropriate because the absence of a site licence already meant that the site should have been vacated and the council had adequate powers to enforce against the continued use of the land. Even if it was agreed that the existence of the use was a proper planning consideration, the proposal would represent an undesirable intensification of that use from about 7 caravans, claimed by supporters of the application for the Established Use Certificate, to 20 caravans on the site.

10. The appellant contended that the Borough Council were attempting to use their powers to prevent the implementation of existing use rights in a manner which was wrong in law and contrary to natural justice. On the first count the appellant referred to (1965) 1 All England Law Reports, page 490, the House of Lords Decision in the case of Minister of Housing and Local Government v Martinell. In particular the appellant cited the opinion of Lord Wilberforce (page 505) who quoted the statement of Lord Warrington of Clyffe in Colonial Sugar Refining Co Ltd v Melbourne Harbour Trust Comrs, that "a statute should not be held to take away rights of property without compensation unless the intention to do so is expressed in clear and unambiguous terms". Lord Wilberforce said that, in the case before him, there was a procedure by which use of a site could be discontinued, or allowed subject to condition, which procedure involved payment of compensation, and it would be unreasonable and *ultra vires* to seek to achieve the same objection by the imposition of a condition outside that procedure.

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11. It was not open to the planning authority to enforce against the established use and it was evident from *Broxbourne Borough Council v Secretary of State for the Environment* (1980) Q.B.1; (1978) 38P & CR381 that the appellant was entitled to use the land to the full extent of the certificate. The certificate made no reference to the number of caravans stationed on the site and it was submitted that it was not open to the council to interpret the evidence which supported the application for the certificate of established use. The appellant accepted that the certificate did not constitute a planning permission, but said that the importance of the existence of an established use was recognised by the Secretary of State in his decision letter under reference APP/5392/C/75/2684 in which he found that "... in view of the immunity from enforcement action conferred by the established use, it is thought that the planning objections, which are strongly endorsed, are outweighed by the need for a formal planning permission to enable a site licence to be obtained ...". In his decision under reference APP/2145/A/57098 dated 14 May 1963, the Minister of Housing and Local Government recognised the principle that termination of existing uses should carry a right to compensation and concluded that "... solely in equity and contrary to his view on the planning merits, permission should be granted for the caravans, leaving the planning authority to make a discontinuance order if they wish".

12. The council maintained that the circumstances of the cases cited by the appellant were not the same as those of the proposal before the inquiry. However, I recognise in these precedents a clear principle, which leads me to conclude that it would be inequitable to deny the appellant the benefit which the established use certificate bestows, by refusing planning permission for development in accordance with the established use and consequently making it impossible for her to obtain a site licence. I believe that this consideration outweighs the planning objections to the proposal and in the rare and exceptional circumstances of this case I see no reason why the development, if permitted, should make it difficult for the local planning authority to resist other extensions to caravan parks which lack the special justification of Mrs Ward's scheme.

13. Your client is prepared to submit to conditions restricting the use of the site to 20 static holiday caravans, restricting the period of occupancy and requiring landscaping of the site. The council propose a condition limiting the number of caravans on the site to seven. The established use certificate refers to holiday caravans and I consider that I should and may impose a condition restricting the period of occupancy of the caravans; but it would be wrong for me to limit the established use of the site by means of planning conditions and I consider that all other matters should be for the consideration of the council as licensing authority.

14. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for an extension to a caravan park for 20 caravans at Horseshoe Caravan Park, Bell Farm Lane, Minster, Sheppey in accordance with the terms of the application No SW/84/970 dated 3 August 1984 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun not later than 5 years from the date of this letter;
2. no caravan on the site shall be occupied between 1 November in any one year and 28 February in the succeeding year.

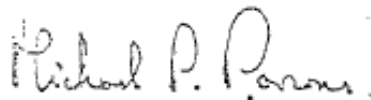
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15. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

16. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

17. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant



MICHAEL P PARSONS DiplArch (UCL) RIBA
Inspector

ENC

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Ref No: T/APP/V2255/A/84/018360/P2
T/APP/V2255/A/84/024617/P2

APPEARANCES

FOR THE APPELLANTS

Mr J Furber

- of counsel, instructed by
Messrs Whetstone & Frost,
8 Bishop Street, Town Hall Square,
Leicester, LE1 6AP.

He called:

Mr G R Beach BSc

- Planning Consultant.

FOR THE PLANNING AUTHORITY

Mr W Aldworth

- Solicitor, Swale Borough Council.

He called:

Mr C P Lewcock BA

- Area Planning Officer, Swale
Borough Council.

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Notice of the inquiry.
- Document 3 - Withdrawal of appeal T/APP/V2255/A/84/018360/P2.
- Document 4 - Copies of planning decisions refs: NK/8/53/53, NK/8/53/53A, NK/8/60/92, NK/4/73/523, NK/4/73/608, JW/76/458, JW/79/530.
- Document 5 - Copy of established use certificate SW/83/677 and declarations.
- Document 6 - Letter dated 21 January 1985 on behalf of Mr G Sonn to the Inspector.
- Document 7 - Extract from the Encyclopaedia of Planning - Caravan Sites.
- Document 8 - Extract from the (1965) All England Law Report.
- Document 9 - A copy of the planning application dated 25 March 1983, but received by the local planning authority on 9 May 1983, submitted by Mr P J Houghton on behalf of Mr Larman.
- Document 10 - A copy of the refusal notice dated 24 January 1984 in respect of Mr Larman's application.
- Document 11 - A copy of the Established Use Certificate dated 15 February 1984 covering the appeal site.
- Document 12 - Letter from Swale Borough Council dated 20 June 1984.