

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 25 August 2010**

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**APPLICATION REF. NO:** 10/00471/FUL

**STATUTORY DECISION DATE:** 27/08/10

**WARD/PARISH:** HURWORTH

**LOCATION:** Former Brickworks Site, Skipbridge

**DESCRIPTION:** Variation of condition 20 (None of the static caravans, other than the caravan designated for the site manager, shall be occupied as a person's sole or main place of residence, or be occupied between 1 December in any one year and the 31 January in the succeeding year) of planning permission 07/01064/FUL granted on appeal APP/N1350/A/08/2071080 dated 18/7/08 (Leisure park for the stationing of static caravans and associated facilities) to allow the occupation of the caravans for holiday purposes from 8 February in any one year to 25 January in the following year.

**APPLICANT:** Lakeside Eco Lodge Park Limited

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**APPLICATION AND SITE DESCRIPTION**

The application site is situated at the former Skipbridge Brickworks site, midway between Darlington and the village of Neasham.

It is bounded to the north by farmland, and to the east and southeast partly by farmland and a range of former agricultural buildings, now converted to dwellings (The Potteries) and a complex of existing agricultural buildings. A small field adjoins the southern boundary, beyond which lies Neasham Road (C38). A pond and further remains of the former brickworks site are located along the western boundary. Planning permission was granted in January 2005 for the use of this land for recreational purposes, including an equestrian centre and improvements to the pond.

In respect of the application site itself planning permission (Application Ref: 07/01064/FUL) was refused for a leisure park for the stationing of static caravans and associated facilities in February 2008. The application was subsequently allowed on appeal in July 2008 subject to a

number of conditions, including a requirement for the caravans not to be occupied between 1 December in any year and the 31 January in the following year (two months).

This application seeks to vary that holiday occupancy condition to allow for an extension to the holiday season. The application when submitted originally sought to extend the holiday period to open all year round. However following negotiations with the applicant's agent an eleven and a half month operating season is now sought with a seasonal break of two weeks, from 25 January until 8 February where none of the caravans will be occupied.

A supporting statement accompanies the application.

In summary the statement indicates that since obtaining planning permission in July 2008 work has commenced on the site and the stage has been reached where a number of pitches have been laid and landscaping works undertaken and marketing of the leisure park begun. However, it is stated that the applicant is at a clear disadvantage when it comes to marketing, as 10 month holiday seasons are no longer the norm. It is also stated that given the level of investment that is being put into the site as a luxury holiday park, it is vital that the income stream is not compromised through losing potential customers to other holiday parks nearby where a 12 month season is offered. Holiday parks which have been identified are:-

- Carlton Holiday Home Park, Stokesley
- Brompton Lakes, Richmond
- Badgers Retreat, Richmond (eleven and a half months)
- Newbus Grange Country Park, Darlington (eleven and a half months)

The applicant has also indicated a willingness to accept model occupancy conditions set out in the Department for Communities and Local Government *Good Practice guide on planning for Tourism*.

In response to claims made by some objectors that the lodges are for permanent residential use the applicant has stated that they have been clearly marketed as and sold with a holiday Licence Agreement. A template of the Agreement has also been provided to confirm that the lodges are to be sold for holiday use only and that proof of a person's registered home address is required by the Agreement.

## **PLANNING HISTORY**

The site has an extensive planning history. However, other than the permission for the leisure park mentioned above the most recent planning entry is for retrospective approval for the erection of brick piers at the site entrance in January 2009 (Ref: 08/938/FUL).

## **PLANNING POLICY BACKGROUND**

### **Relevant Planning Policy**

*Borough of Darlington Local Plan 1997*

E27- Flooding and Development

E28 –Surface Water and Development

TO6- Camping and Caravans

T12 –New Development Road Capacity

*National Planning Policy*

Parts of the following Planning Policy Statements and guidance are material considerations:

PPS4 - Planning for Sustainable Economic Growth (December 2009)

PPS7 - Sustainable Development in Rural Areas (March 2005)

Department for Communities and Local Government (DCLG) Good Practice Guide on Planning for Tourism (May 2006).

**RESULTS OF CONSULTATION AND PUBLICITY**

Ten letters have been received objecting to the proposal as originally submitted on the following grounds: -

- I believe that granting this variation will encourage people to consider these lodges as permanent residencies and this is not what the park was originally intended for. It is called a Leisure Park and that should be its purpose. Granting the variation will actively encourage the owners to allow and sell year round residency and thus bring a large number of residents into the area for the Borough Council to have to service –schools, waste removal, healthcare, elderly care, transport links etc. costing the Council additional expense.
- I am greatly concerned that the owners of the site are already trying to alter the conditions of the leisure park and in doing so will change the site to a Residential Park. The applicants state that at present they are advertising and trying to sell lodges on site, but I cannot see that at this moment in time there is any justification for the amendment as the site is still unfinished and there is no leisure facilities whatsoever in place as was promised in the original plans.
- The original plans were passed as applied for by the applicant and it would seem reasonable to ask that the conditions are adhered to.
- As far as I am aware the Borough Council has not issued a licence to the park owners for it to be a residential park and I believe this is a method for it to become a residential park without requesting this licence and without complying with the licence's requirements. Getting in by the 'back door' to residential status without any compliance.
- The owner of the site has not complied with the original permission and thus it is inequitable and inappropriate for conditions to be varied before the development has been fully completed. Planning was granted for eighty static caravans and so far an office, lodge and a number of hard standings have been finished.
- If the park owners allow people to live permanently on the site and the lodges meet full BS362 standards they will then have to comply to the Mobile Homes Act 1983 and will have to hold a written agreement with residents outlining their rights and responsibilities in the agreements implied and express terms. I am very concerned that as this is a way of having residents living there by the 'back door' and that the park owners will not follow this legislation and the local community and those living on the park will not be protected.
- If anyone does become a resident on the site they will not be protected properly. If the site holds a holiday licence, no matter whether that licence is for 12 months of the year, residents must only use the lodges as a holiday home. They must have a permanent address elsewhere and or they will not be protected by the 1983 Mobile Homes Act.

- Conditions should include that the site owners pay for footpaths to Darlington and Hurworth, they pay for any blighted property claims made on the local authority and contribute to council tax coffers.
- Does the specification of the caravans have to be improved to meet residential standards or can the standards applied for the sustainability and environmental requirements not apply to these mobile structures?
- The initial approval was seriously flawed and any further concessions only compound the error.
- Objections to the original plans included the fact that there was already caravan park at Newbus Grange, the inference being that there was already adequate leisure capacity in the area. In replying to this the Inspector's report stated that the national guidance and local policy on recreational developments do not include any test of need, thus implying that viability of the leisure park was not a planning consideration. The applicants now make reference to market and economic need to justify year round occupation and it follows that this should also not be a planning consideration.
- In allowing the appeal for the leisure park the Inspector stated that he would be applying a condition precluding year round occupation of the caravans to ensure that policies on the development in the countryside are not compromised and that local services do not come under pressure from permanent occupation.
- The applicant proposes keeping a register of leisure park occupiers to allow the Borough Council to monitor the situation but concern is expressed that the Council does not have the resources presently and will not have in the future, to ensure that the site is properly managed. Making sure that the site is empty for a set two months of the year will ensure that the site can be monitored more easily by the Council and local residents.
- The two months when the site is free of residents is the time when there are no leaves on the trees that are supposed to reduce the noise levels and buffer the residents from the site's noise pollution. If people are allowed to stay for those two months there will be no reduction in noise levels and no respite from the site.
- The access and services infrastructure in this area are already under pressure. Allowing this variation would make the situation worse.
- This is not a tourist area and not designed for 'trippers'.
- How will Neasham Road cope with additional traffic that the proposal will generate?
- It is evident that currently the site is not managed correctly from the fact that heavy machinery is constantly used on the site and that it is not properly fenced or closed off. No one from the Council is checking this and managing the site in its current state.
- Four large Calor gas tanks have recently been placed on the site. These are not shown on the plan, so where is the enforcement officer who should be monitoring things? Do the tanks comply with current Health and Safety legislation as they seem to be extremely close to the three bungalows at the Potteries.

Fourteen letters have also been received in support of the application and the following points made: -

- In previous years the site has been of huge visual detriment to the local area. Since the brickworks closed down it has been little more than waste ground. The improvements to the site that have happened over the last few months have been truly transformational, and it is obvious from the start that has been made, that once finished, the site will not only be visually pleasing, but environmentally complementary as well.
- The park truly does warrant a twelve month licence. A lot of people in Neasham love it and despite misgivings at the beginning the local perception of the development has

changed now work has begun. The park will be a credit to Neasham, Hurworth and Darlington as a whole and as such it deserves to be unrestricted as far as operating times go.

- I have discovered that David Bellamy is consulting on the landscaping and planting of the entire site and will advise on all environmental and conservational matters. The site will be also aiming towards a David Bellamy Gold Conservation Award, which would be a huge attraction to tourists and residents of Darlington and the surrounding villages alike.
- It would be brilliant news for local people if the amendment goes through and the park opens all year round. There are concerns locally about the security of the park if it is closed for two months.
- Insisting that this site is only granted a 10 month holiday licence seems a little strange, especially as the Newbus Grange holiday park nearby has a eleven and a half month licence at present and there have been no problems associated with that park. It is perhaps the case that this decision was made due to concerns that were raised by objectors to the original plans, that the site would become a Romany Gypsy site, as no other explanation can be easily identified by an onlooker to the proceedings.
- I don't understand how we can encourage people to purchase a holiday home in the Borough where they will bring increased revenue to the towns and villages as well as possibly creating jobs, and yet expect them to agree only to be able to use it when the Council says it can. Surely this will put people off buying and the site will become unused and fall into disrepair becoming a blight on the landscape.
- Other holiday parks in the UK operate on a 12 month licence without problems.
- It would result in increased trade throughout the year for local public houses and businesses, improving the village economy.

**Hurworth Parish Council** has stated that they objected in the strongest possible terms to the original application and feel that the proposal will result in a further deterioration in the qualities of life for their residents.

**Neasham Parish Council** has objected to the proposal on the grounds that it would result in permanent residential accommodation contrary to the original application and if it were granted what other future extensions to the original plans would be proposed.

**The Environment Agency** has advised that the application has a low environmental risk and have raised no objection.

**Northumbrian Water** has raised no objection.

**Northern Gas Networks** has no objection to the proposal.

**Natural England** has advised that a Natural England Protected Species mitigation licence is currently in place and as the condition for which the variation is requested does not relate to Great Crested newt, the licence should not be affected.

**The Council's Public Protection Division** has no comments or objections to make on the application.

**The Council's Highways Engineer** has made the following comments: -

*“All year round opening would not add any additional highway issues I would therefore not be able to raise any highway objection to the proposal”.*

## **PLANNING ISSUES**

The main issues to be considered in the determination of this application are: -

- Planning Policy
- Residential Amenity
- Infrastructure and Services
- Highway Matters
- Other Matters

### **Planning Policy**

There are no specific policies within the Borough of Darlington Local Plan in respect of the length of holiday occupation or length of holiday season. Such advice is contained within central government policy statements PPS4, PPS7 and guidance contained in the Good Practice Guide for Tourism.

PPS7 indicates that planning authorities should adopt a positive approach to proposed extensions to existing tourist accommodation where the scale of the extension is appropriate to its location and where the extension may help to ensure the future viability of such businesses. This is repeated in more recent central government advice in Policy EC7 (Planning for Tourism in Rural Areas) of PS4.

The DCLG's *Good Practice Guide on Planning for Tourism* also supports a more positive approach to extensions of the holiday season in respect of caravan holiday homes and self catering accommodation generally. Annex B of the Guide which provides detailed advice in respect of seasonal and occupancy conditions states in paragraph 1: -

*“The nature of holidays in this country has become increasingly diverse, in location, in season and in duration. Many people go away several times a year, often for short breaks and not exclusively in the summer months. Much of this demand is for self catering accommodation – whether in new or converted homes or in caravan holiday homes. This spread of demand improves the use that is made of this accommodation and so is advantageous to the businesses which provide it and to those host communities which are supported by the spending that it generates. It can help to reduce the disadvantages of seasonal employment, including the difficulties of retaining trained and experienced staff.”*

The proposal would seem to make it easier for occupiers of the lodges to live permanently on the site and simply take a holiday elsewhere over the closed period proposed. However Annex B of the Guide indicates that it is possible through the imposition of a condition including three criteria to ensure that the caravans/lodges are only used by visitors and do not become part of the local housing stock. The first two criteria require the caravans/lodges to be occupied solely for holiday purposes and not as a person's main place of residence and the third criterion requires an up to date register of the names of all owners/occupiers of caravans/lodges and their main home addresses to be maintained and made available to the local planning authority at all reasonable times.

There have been a number of successful appeal decisions elsewhere in respect of this issue to extend the period of holiday lets, similar to the current proposal, and also for year round operation. Inspectors have considered that the imposition of the suggested conditions identified in the Guide, particularly the third criterion to be sufficiently adequate in preventing the holiday units from becoming permanent dwellings.

In view of this recent central government planning policy and guidance which supports a more flexible approach to the length of holiday occupation, officers consider that subject to the imposition of conditions described above then the proposed variation is acceptable.

Members may wish to note that in March of this year an application was submitted by the Newbus Grange caravan park near Neasham (approximately 1.6km to the south of the application site) for a similar proposal to extend the holiday season of the site, leaving a two week period when the caravans would be vacant. Approval was granted for this under delegated powers in May.

### **Residential Amenity**

The proposal is unlikely to adversely impact on the amenities of adjoining residents. This issue was considered in some depth by the planning inspector in respect of the original application for the leisure park. His comments on this issue are set out below: -

*“ The only dwellings close enough as to raise the question of possible noise and disturbance from activities within the appeal site are those at The Potteries adjacent to the south-east boundary. However they stand some 35m from that boundary, behind long front gardens and a hard surfaced area, beyond which and within the site a landscaped mound is proposed. Given this buffer and, and the fact that the main potential sources of noise within the site, such as the tennis courts and children’s play area, would be well away to the north west, I do not consider that residents would suffer unacceptable levels of noise and disturbance. ---”*

### **Infrastructure and Services**

None of the utility operators have raised any objection to the extension of the holiday season.

### **Highway Matters**

The proposed extension to the holiday season is unlikely to have any significant effects on the local road network and therefore it raises no highway objections.

### **Other Matters Raised by Objectors**

- The operators will require a separate licence from the Council’s Public Protection Division to operate as a caravan holiday park. This has not yet been sought.
- The Mobile Homes Act 1983 relates only to permanent residential accommodation.
- An application has recently been submitted for the Calor gas tanks that have been mentioned by an objector, which will be considered in due course as a separate matter.

### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on,

and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **CONCLUSION**

The variation of the condition to allow for an extended holiday season is considered acceptable, subject to the imposition of suitable conditions to prevent permanent occupation. The proposal would not result in any adverse impact on the visual amenity of the locality nor is the development likely to result in any material harm to the amenities of neighbouring residents. It would not give rise to any issues in relation to highway safety or crime prevention. The application raises no issues in relation to contamination or foul or surface water drainage.

## **RECOMMENDATION**

THAT VARIATION OF CONDITION 20 ATTACHED TO PLANNING PERMISSION 07/01064/FUL DATED 18 JULY 2008 TO ALLOW THE OCCUPATION OF THE CARAVANS FOR HOLIDAY PURPOSES FROM 8 FEBRUARY IN ANY ONE YEAR TO 25 JANUARY IN THE FOLLOWING YEAR, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1) The lodges shall be occupied for holiday purposes only.

REASON – To ensure that the holiday accommodation is not used for unauthorised permanent residential accommodation in order not to prejudice Local Plan Policies of development in the open countryside.

- 2) The lodges shall not be occupied as a person's sole, or main place of residence.

REASON – To ensure that the holiday accommodation is not used for unauthorised permanent residential accommodation in order not to prejudice Local Plan Policies of development in the open countryside.

- 3) The owners/operators of the leisure park shall maintain an up-to-date register of the names of all owners/occupiers of individual lodges on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

REASON – To ensure that the holiday accommodation is not used for unauthorised permanent residential accommodation in order not to prejudice Local Plan Policies of development in the open countryside.

## **SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION**

The variation of the condition to allow for an extended holiday season is considered acceptable, subject to the imposition of suitable conditions to prevent permanent occupation. The proposal would not result in any adverse impact on the visual amenity of the locality nor is the development likely to result in any material harm to the amenities of neighbouring residents. It would not give rise to any issues in relation to highway safety or crime prevention. The application raises no issues in relation to contamination or foul or surface water drainage.



Therefore the proposed development is considered to comply with the policies in the development plan and Government planning policy set out below: -

**Borough of Darlington Local Plan 1997**

E27- Flooding and Development

E28 –Surface Water and Development

TO6- Camping and Caravans

T12 –New Development Road Capacity

**National Planning Policy**

PPS4 - Planning for Sustainable Economic Growth

PPS7 - Sustainable Development in Rural Areas