

MID SUFFOLK DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE B - 16th March 2016

AGENDA ITEM NO	6
APPLICATION NO	4226/15
PROPOSAL	Variation of condition 3 of planning permission 2689/15 "Use of land for the stationing of 23 holiday lodges" to permit extended occupation of lodges.
SITE LOCATION	Honeypot Farm, Bury Road, Wortham IP22 1PW
SITE AREA (Ha)	0.217
APPLICANT	Mr Feeney
RECEIVED	November 26, 2015
EXPIRY DATE	March 1, 2016

REASONS FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason :

- (1) The application was deferred by Committee B on at the meeting in February for further negotiation as to the period of occupancy and tenure management issues and a recommendation to report back to committee.

UPDATE FOLLOWING DEFERRAL FROM COMMITTEE

Following the deferral from Committee Officers contacted the applicant's agent to express the desire of the Committee for there to be negotiation with regard to the period of period of occupancy and tenure management. In response to this an email has been received from the applicant's agent which states :

"I can confirm that I have discussed the matter further with the applicant. He does not wish to agree a compromise as suggested by the Planning Committee. He considers that what he is asking for merely reflects Government advice (in fact the condition I have recommended provides more control than the Government's recommended conditions) and consequently there is no planning reason why the application should not be approved or why the Committee should ignore the advice of its professional officers. Please can you take the application back to committee as soon as possible."

UPDATED ASSESSMENT

Your officers have considered the response from the applicant. There is no change to the proposal as previously reported to Committee. Therefore your officers are still of the opinion that a variation of the wording of the occupancy condition would reasonably permit a more flexible occupation of the lodges which would benefit the rural economy but would not result in the permanent occupation of the lodges. Therefore there is no justification to change the recommendation to approve as set out in the previous report to Members.

For information the previous report to the Committee B on 17th February is set out below:

--- ORIGINAL REPORT TO COMMITTEE FEBRUARY 17TH 2016 ---PRE-APPLICATION ADVICE

1. No substantial pre-application advice was given. The applicant's agent was advised that a formal application would be required to vary the wording of the occupancy condition.

SITE AND SURROUNDINGS

2. This application relates to an established camping and caravan site located on the southern side of Wortham village. The site is accessed via a vehicular access from the main A143 Bury to Diss road across Wortham Green. This access also serves some residential properties which front on to the Green, and a bungalow associated with the camping site. A 5m metre wide access drive between two residential properties leads to the site.

The application site has an area of approximately 1.85ha and is currently laid out with individual pitches for siting of caravans or tents. One pitch is used on a seasonal basis by a site manager. There is a permanent amenity block on site and the site is defined by established boundary hedging and includes a fishing lake at the southern end. Part of the site in the south eastern corner adjacent to the lake is currently set aside as an informal recreational area and not used for camping/caravan pitches.

HISTORY

3. The planning history relevant to the application site is:

2689/15	Use of land for the stationing of 23 holiday lodges and one lodge for site manager	Granted 27/10/2015
4134/08	Continued use of land as caravan and camp site without compliance with condition number 5 of permission 1044/94 (seasonal restriction of warden's caravan), to allow one warden's caravan to be stationed and occupied between 1 March and 30 November annually.	Granted 16/04/2009
2495/06	Variation of condition 5, of planning application 1044/ 94, to allow a touring caravan to be used by a warden between 1st April & Sept 1st annually.	Granted 18/01/2007
0081/95	Change of use of agricultural land to camping & caravan	Granted 20/6/1995
0970/83	Retention of use of land for caravan site accommodating 12 caravans	Granted 3/1/1984
0996/78	Retention of use of land for caravan site accommodating 12 caravans and use of access across green	Granted 15/3/1979

PROPOSAL

4. Following the grant of planning permission in October 2015 for the use of land for the stationing of 23 holiday lodges and one lodge for a site manager, planning permission is sought for the variation of condition 3 of planning permission 2689/15 to permit extended occupation of lodges.

Condition 3 of permission 2689/15 states as follows:

"The holiday units hereby approved (except for the lodge allocated for the site manager) shall not be occupied other than for holiday purposes and shall not be used as residential dwelling/s, including any use within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). No person/s shall occupy any of the unit/s for more than 28 consecutive days or re-occupy any unit on the site at any time during the first 28 days following their most recent stay.

Details of the name, permanent home address, vehicle registration of guests shall be kept in a register on site, a copy of which shall be made available to the Local Planning Authority for inspection at any time".

The application is supported by a statement from the applicant's agent which states that the condition 3 is unreasonable and does not comply with Government advice on conditions for holiday accommodation and prevents flexibility to allow for owner occupation. An alternative wording of an occupancy condition is suggested based upon a recent appeal decision relating to a holiday lodge development in Essex:

"The holiday lodges shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main place of residence. The hereby approved holiday lodges shall not be occupied between 8 January and 8 February in any calendar year. The owners/operators 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".

POLICY

5. **Planning Policy Guidance**

See Appendix below.

CONSULTATIONS

6. **Wortham & Burgate Parish Council**

- oppose the variation as we consider that the existing 28 days consecutive occupancy restriction, is reasonable during the holiday period April to

October.

- We are of the opinion that simply by observing a requirement to vacate for say, one month in each year, is not sufficient to demonstrate holiday use if a person is using the holiday accommodation as their main or sole place of residence.
- While we support and encourage tourism, we need assurances that approved holiday accommodation is not used as a person's sole or main place of residence. Otherwise, residential development can occur in places that are contrary to important planning policies.
- There are significant benefits in providing holiday accommodation in our area, but our concern is to ensure that our countryside is protected from inappropriate development and that holiday accommodation is not occupied in breach of the holiday occupancy conditions. We consider that these conditions should be that the accommodation must only be used for holiday purposes and we refer to the standard dictionary definition which is applied also by Government Planning Inspectors and in the Courts, that a holiday is an extended period of recreation, away from a person's home; a day of festivity or recreation when no work is done.
- The test should be that the owner/occupier cannot use the accommodation as a sole or main place of residence, which must be in place elsewhere and being used as such.
- There are various factors which have been agreed in other councils in the UK, that may indicate that holiday accommodation is being occupied in breach of the occupancy conditions. These factors include:-
 - 1) An occupier spending the majority of their time in the holiday accommodation
 - 2) An occupier being asked by the site operators to provide a relative's address or an overseas holiday address as their sole or main place of residence;
 - 3) An occupier(s) receiving their mail at the holiday accommodation;
 - 4) An occupier using the holiday accommodation as a place to register to vote;
 - 5) An occupier's child attending a local school;
 - 6) An occupier or members of their family being registered permanently with a local GP or dentist;
 - 7) An occupier (or spouse/partner or other family member) carrying on their business or employment based at the holiday accommodation. For example, as a base to commute to and/or from a place of work as if being used as a sole or main place of residence.
 - 8) Ceasing employment for example through retirement does not mean that a person is on holiday. They must still be required to have a sole or main residence.

Tourism Development Officer

- would like to confirm support for the above application.
- The current visitor destination plan (amongst many recommendations) emphasises the need to encourage more overnight stays, and families to visit, and for visitors to come all year round. This development has the potential to help address these areas. The VDP and other supporting documents can be found on our website. <http://www.midsuffolk.gov.uk/business/economic-development/tourism-development-in-babergh-and-mid-suffolk/>

- The current condition which is in place would be difficult to monitor and enforce effectively, and, as well as appearing to have an impact on the viability of the project, it conflicts with the aim of encouraging visitors to come all year round, and is therefore counter-productive. I would recommend a flexible condition is used as detailed below which restricts the use and occupancy to holiday accommodation which is the essential element, without imposing rigid timescales when it can be occupied.
- *"The accommodation shall be occupied for holiday purposes only. The accommodation shall not be occupied as a person's sole or main place of residence. The site owners/ operators shall maintain an up-to-date register of the names of all occupants of the accommodation and of their main home addresses; the site owners/ operators shall make this information available at all reasonable times to the local planning authority."*

LOCAL AND THIRD PARTY REPRESENTATIONS

7.
 - objected to the original planning application 2689/15 and objections raised can only be repeated in respect of the application to vary condition 3
 - Previously warned of "planning creep" and are shocked that as soon as consent was granted the applicant is already applying to vary the conditions.
 - The previous planning application (2689/15) and supporting statement made numerous references to "holiday lodges", "sustainable tourist facilities", "leisure development" and "tourism" and we believe that as no individual owner of a unit would be regarded as being on holiday for eleven consecutive months of the year, that the variation of the condition is merely an attempt to create a lodge park where owners can live for 11 months of the year and then go away for one month in order to satisfy the planning condition.
 - Whilst the lodges are to be regarded as a second homes presumably checks will be made that buyers already own another property that is not let out and that can be regarded as a main home
 - If checks are made what is to stop owners selling their main property ? The planning consent is for holiday accommodation and the variation of the condition changes the whole nature of the site. If lodges in other parts of Suffolk cannot be sold then perhaps they are over priced or perhaps it is an indication that there are too many of them in the first place and there is little demand for them. That is the applicants problem and should have been researched prior to the original application being submitted.
 - A condition similar to condition 3 has been imposed by the Council on other developments in the area and should remain unchanged on this development. If other local authorities in the country have chosen to amend such a condition then there is little precedent for that in the area administered by MSDC.
 - We do not wish to live next to a glorified "caravan park" which will provide cheap accommodation for eleven months of a year whilst the occupants at best rent out their main property and at worst use the lodges as their home and whilst our property is further devalued and therefore in accordance with the planning policy stated in support of the original application, in respect of true holiday accommodation, the current condition 3 should remain in place.

ASSESSMENT

8. In assessing this application the key criteria are as follows:

- Principle of Development
- Site History
- Restriction on occupation
- Conclusion

Principle of Development

The principle of the development of the site as a holiday lodge development has been established with the granting of planning permission, as detailed below. This application specifically concerns the matter of the occupancy condition as applied.

For the purpose of the Core Strategy Wortham is designated as a secondary village. The site is located to the south of the defined housing settlement boundary, in the Countryside. Access to the site is located alongside the boundary of a grade II listed building.

The National Planning Policy Framework (NPPF) at para 28 give weight to supporting economic growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. It also encourages Local Authorities to support sustainable rural tourism and leisure developments which benefit businesses in rural areas, including supporting provision and expansion of tourist and visitor facilities in appropriate locations. Policy CS2 of the Core Strategy states that development in the countryside will be restricted to certain categories of development. Recreation and tourism are accepted, in principle.

Policy RT19 of the Local Plan states that holiday chalets will be permitted where there is no adverse effects on the character and appearance of the landscape, existing residential amenity and highway safety.

Site History

Planning permission (2689/15) was granted in October 2015 for the use of the site for the stationing of 23 holiday lodges and 1 lodge for a site manager. The application was supported by an indicative illustration of a holiday lodge which showed a three bedroom unit timber clad unit with a shallow pitched roof.

The application was supported with a statement which stated that the lodges were intended to provide the holiday accommodation on the site for 11 months of the year to ensure viability and meet the demand for holiday accommodation outside the summer season. The proposed lodge for a site manager would be required for 12 month occupation. The proposed lodges would not be permanent dwellings but would conform with the definition of 'caravans' as set out in the Caravan Sites and Control of Development Act 1960.

Restriction on occupation

With regard to the occupation of the proposed holiday lodges, in order to limit

the potential for long term occupation and ensure that they are only used for short term holiday occupation, it was considered appropriate previously to apply a condition restricting occupation to a maximum of 28 days, with no return during the following 28 days. The applicant has now indicated that they intended to provide holiday accommodation on the site for 11 months of the year. There was no reference in the original application to the proposed marketing of the lodges for owner occupation, it was assumed that the lodges would be for rental. The condition which was applied (Condition 3) is a condition which has been consistently applied to other holiday accommodation developments across the District in recent years, and has not been challenged before.

Members will be aware that holiday occupancy conditions are regularly imposed by planning authorities to ensure that holiday units, whether caravans or buildings, are safeguarded for that purpose and do not become part of the general housing stock in sites, commonly in the countryside, where that would not normally be permitted. This is in line with national planning policy.

The NPPF states that policies should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities, and visitors. Tourism is seen generally as a proper means by which to promote the rural economy and is acknowledged to place less of a burden upon community services and facilities (e.g. education and healthcare etc). Tourist accommodation controlled by occupancy conditions to ensure that it remains for that purpose is therefore seen as a sustainable form of development.

With regard to this application the applicant is not disputing the need for an occupancy condition which prevents the occupation of the lodges as permanent accommodation, and the Local Authority still retains control over the occupation. The concern expressed by the applicant is that the condition which has been applied lacks flexibility and is not in line with Government guidance with regard to the wording of occupancy conditions. This guidance is set out in Annex B of the "Good Practice Guide on Planning for Tourism" (2006) which is still an extant document. This states that the use of 'holiday occupancy conditions' is generally used to ensure that the premises are only used by visitors and do not become part of the local housing stock, but are only occupied for their intended purpose as holiday homes.

The applicant considers that the wording of the current condition with the 28 day restriction on occupation limits the market for the lodges. The applicant would like to market the lodges for sale so that purchasers can occupy them for periods of time which are more flexible than the 28 day period, or alternatively they could be rented out.

The concerns raised by the Parish Council and the neighbouring resident with regard to the possibility of persons occupying the lodges as a main place of residence are noted. However, the wording of the condition suggested by the applicant explicitly states that the lodges should only be occupied for holiday purposes only and not as a main place of residence. Additionally, the condition requires a period of a month when the lodges are vacant, and a register should be kept of the names of all owners/ occupiers with their main home address. Additionally, it is considered that this information should include vehicle registration numbers. It is considered that a more flexible approach to the wording of the occupancy condition would be in line with the guidance given by Central Government, which has also been followed by an appeal Inspector in a

recent appeal case. Additionally, the Tourism Development Officer supports a more flexible approach in the encouragement of visitors to the area to support the rural economy.

Conclusion

It is considered that a variation of the wording of the occupancy condition as would reasonably permit a more flexible occupation of the lodges which would benefit the rural economy but would not result in the permanent occupation of the lodges. The suggested variation to the wording of Condition 3 is as follows:

"The holiday lodges (except for the lodge allocated for the site manager) shall be not be occupied other than for holiday purposes and shall not be occupied as residential dwellings as a person's sole, or main place of residence, including any use within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The hereby approved holiday lodges (except for the lodge allocated for the site manager) shall not be occupied between 8 January and 8 February in any calendar year. The owners/operators 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 vehicle registration numbers, and shall make this information available at all reasonable times to the local planning authority".

Such a condition would be able to be monitored by the enforcement officer to ensure that it is not being breached.

RECOMMENDATION

That a variation of planning permission 2689/15 be granted subject to the following conditions :

- Development to commence by 27th October 2018
- Development in accordance with approved plans
- The holiday lodges (except for the lodge allocated for the site manager) shall be not be occupied other than for holiday purposes and shall not be occupied as residential dwellings as a person's sole, or main place of residence, including any use within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The hereby approved holiday lodges (except for the lodge allocated for the site manager) shall not be occupied between 8 January and 8 February in any calendar year. The owners/operators 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 vehicle registration numbers, and shall make this information available at all reasonable times to the local planning authority". Details and siting of lodge for site manager to be specified. Occupation of the specified lodge to be only by a person or persons employed to provide on site management.
- Lodges to be layout in accordance with submitted layout plan only
- Maximum of 23 holiday lodges, and 1 site manager lodge to be sited on site.
- No external storage to take place
- Details of areas for storage of refuse bins to be agreed
- Details of foul drainage to be agreed
- Details of roads and footpaths serving lodges to be agreed
- Details of boundary fencing to be agreed

Philip Isbell
Corporate Manager - Development Management

Stephen Burgess
Planning Officer

APPENDIX A - PLANNING POLICIES

1. Mid Suffolk Core Strategy Development Plan Document and the Core Strategy Focused Review

Cor1 - CS1 Settlement Hierarchy

Cor5 - CS5 Mid Suffolks Environment

CSFR-FC1 - PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

CSFR-FC1.1 - MID SUFFOLK APPROACH TO DELIVERING SUSTAINABLE DEVELOPMENT

2. Mid Suffolk Local Plan

GP1 - DESIGN AND LAYOUT OF DEVELOPMENT

HB1 - PROTECTION OF HISTORIC BUILDINGS

RT12 - FOOTPATHS AND BRIDLEWAYS

CL8 - PROTECTING WILDLIFE HABITATS

T9 - PARKING STANDARDS

T10 - HIGHWAY CONSIDERATIONS IN DEVELOPMENT

RT17 - SERVICED TOURIST ACCOMMODATION

3. Planning Policy Statements, Circulars & Other policy

NPPF - National Planning Policy Framework

APPENDIX B - NEIGHBOUR REPRESENTATIONS

A letter of representation have been received from a total of **1** interested party.

The following people **objected** to the application

[REDACTED]

The following people **supported** the application:

The following people **commented** on the application: