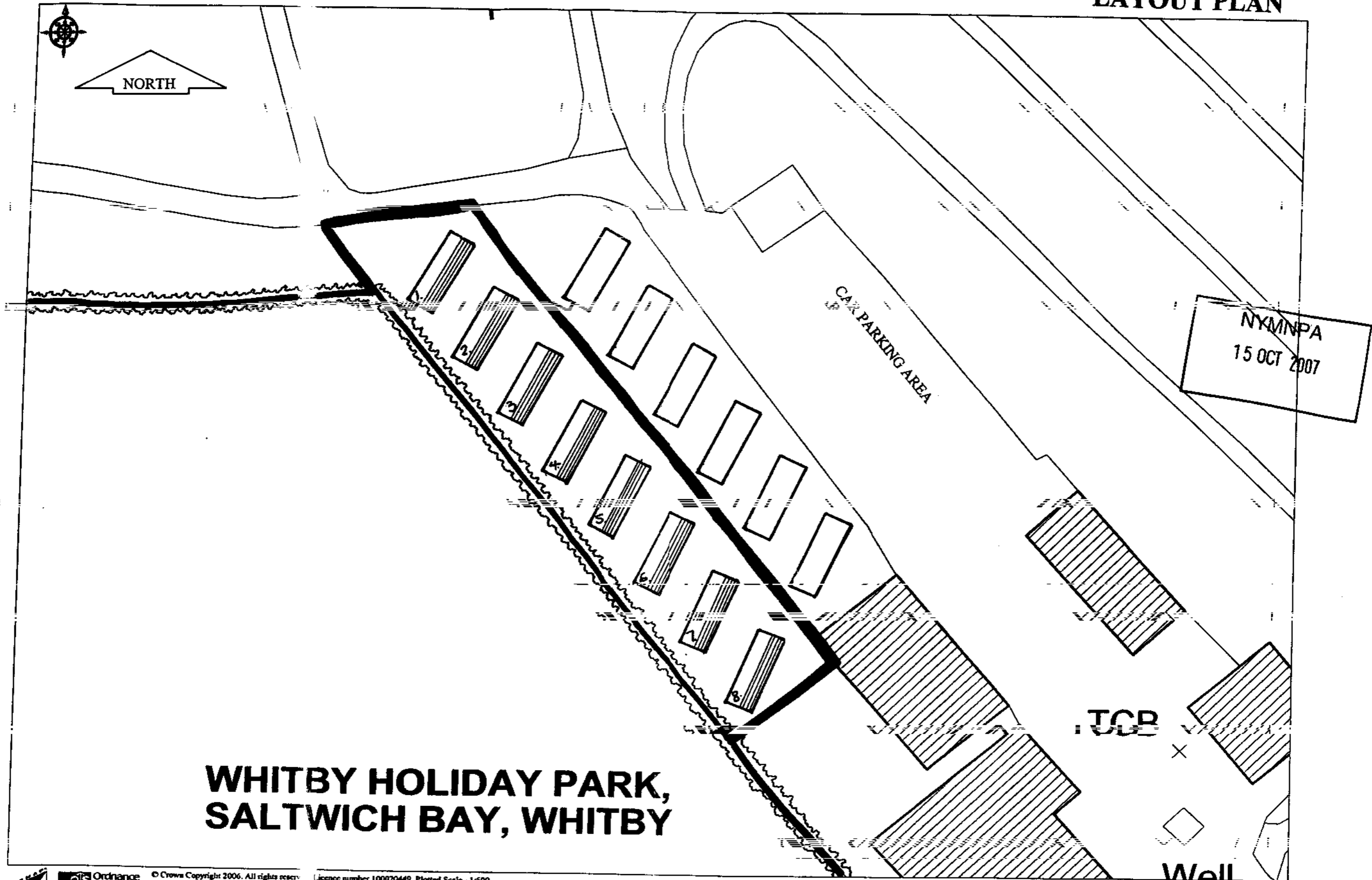


1:500 APPROVED LAYOUT PLAN



WHITBY HOLIDAY PARK, SALTWICH BAY, WHITBY



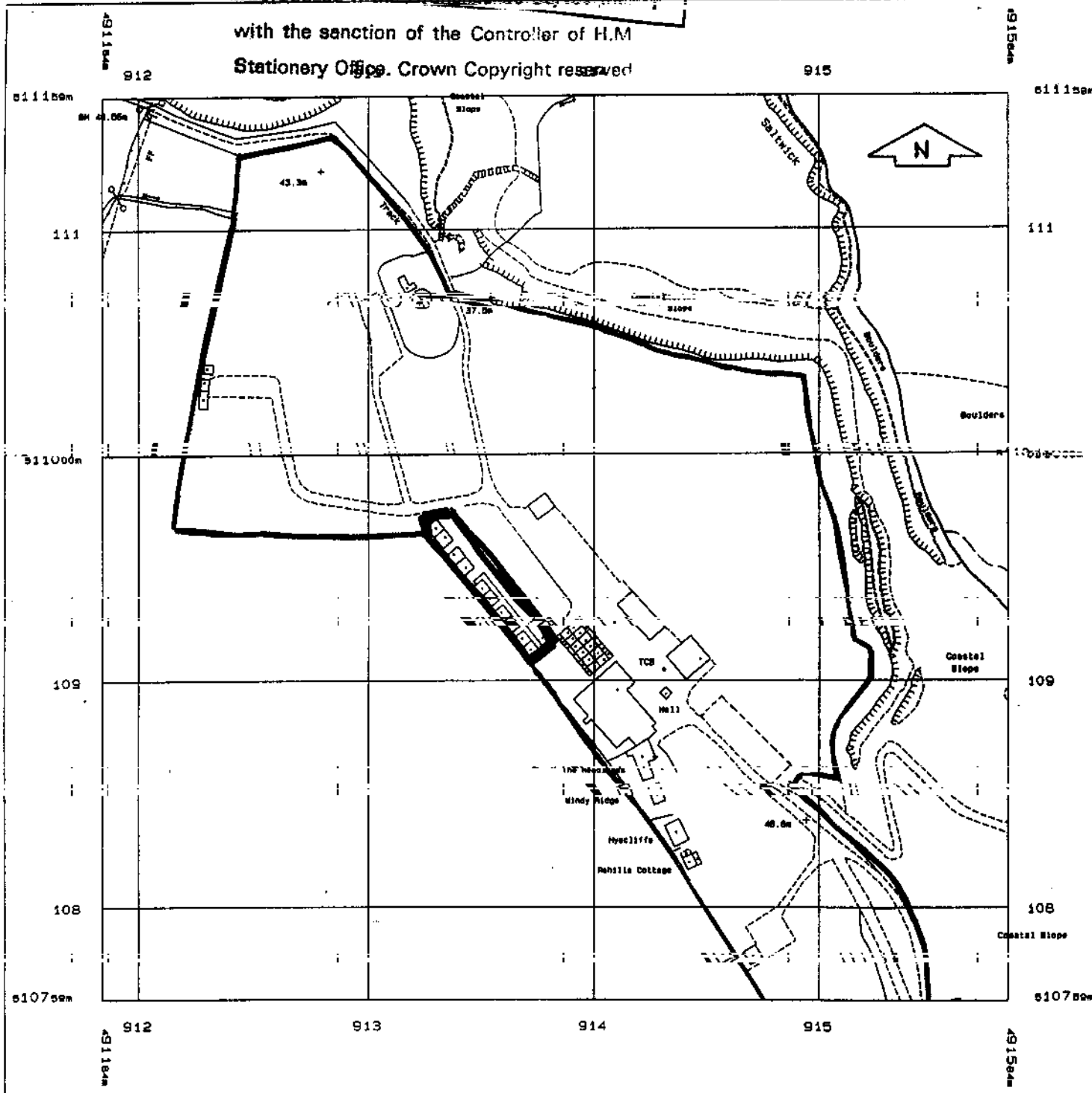
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CHARLES F JONES & SON LLP
CHARTERED SURVEYORS
16 GROSVENOR COURT
FOREGATE STREET
CHESTER CH1 1HN

CH11NPA LOCATION PLAN
15 OCT 2007 **SCALE 1.2500**

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WHITBY
HOLIDAY PARK
SALTWICK BAY, WHITBY

CHARLES F. JONES & SON
CHARTERED SURVEYORS
16 GROSVENOR COURT
FOREGATE STREET
CHESTER
CH1 1HN



07/850
PT1

**North York Moors National Park
Planning Application Form**

Please read the booklet
How to fill in your Planning Application before completing
this form.

For office use only	
Ref:	_____
Admin Ref:	_____
Date Valid:	_____
Grid ref:	NZ 91350, 10940

SECTION 1 YOUR DETAILS

<p>1. Applicant</p> <p>Name <u>NORMANHURST ENTERPRISES LTD</u></p> <p>Address <u>C/O CHARLES F JONES & SON LLP</u></p> <p>_____</p> <p>_____</p> <p>Post Code _____</p> <p>Tel No _____</p>	<p>2. Agent</p> <p>Name <u>CHARLES F JONES & SON LLP</u></p> <p>Address <u>16 GROSVENOR COURT</u></p> <p>_____</p> <p>_____</p> <p>Post Code <u>CH1 1HN</u></p> <p>Tel No <u>[REDACTED]</u></p>
<p>3. Applicant's interest in the land <u>OWNER</u></p>	

NYMNPA
15 OCT 2007

SECTION 2 YOUR PROPOSAL

4. **Full postal address or location of the application site**
LAND FORMING PART OF WHITBY HOLIDAY PARK, SALTWICK BAY, WHITBY

5. **Applicant's interest in adjoining land**
OWNER

6. **Details of proposed development**
VARIATION OF CONDITION TO ALLOW FOR THE DELETION OF HOLIDAY LETTING RESTRICTION AND 28 DAY STAY LIMITATION

SECTION 3 YOUR APPLICATION

7. **Type of application (please tick ONE box only)**

<input type="checkbox"/>	A. Full application including building works	go to Question 12
<input type="checkbox"/>	B. Application for change of use (no building works)	go to Question 12
<input type="checkbox"/>	C. Outline application	go to Question 8
<input type="checkbox"/>	D. Reserved matters application	go to Question 9
<input checked="" type="checkbox"/>	E. Removal or variation of condition	go to Question 10
<input type="checkbox"/>	F. Renewal of temporary permission	go to Question 11

8. **Outline Application**
What is the area of the site? _____

Please tick those details which you wish the Planning Committee to consider formally at this stage.

Siting Design External appearance Means of access Landscaping None

go to Question 12

9. **Reserved Matters Application**

Date of outline permission _____ Application No _____

Please tick those details which you wish the Planning Committee to consider formally at this stage.

- Siting Design External appearance Means of access Landscaping
go to Question 12

10. **Removal or variation of condition**

Date condition imposed 20.12.06 Application No NYM/2006/0838/CU

Condition No 4
go to Question 12

11. **Renewal of temporary permission**

Date permission granted _____ Application No _____

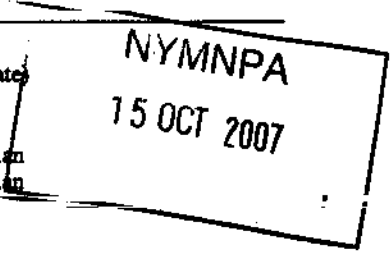
12. **Use** HOLIDAY CARAVAN ACCOMMODATION
What is the building/land used for at present?

If it is unused at present, what was its last use? N/A

13. **Access**

Does your proposal require new or altered access? **YES/NO** (delete as appropriate)
If YES, please tick the relevant boxes:

- New access to a road Vehicular Pedestrian
Altered access to a road Vehicular Pedestrian



14. **Water Supply and Drainage**

Please state (please tick one box in each section) the method of:

- | | | | |
|------------------------|---|---------------------------------------|--|
| Water Supply | <input checked="" type="checkbox"/> Mains | <input type="checkbox"/> Private | existing/proposed* |
| Surface Water Disposal | <input type="checkbox"/> Public Surface Water Sewer | <input type="checkbox"/> River/Stream | existing/proposed* |
| | <input checked="" type="checkbox"/> Soakaway | <input type="checkbox"/> Other | existing/proposed* |
| Foul Sewage | <input type="checkbox"/> Public Foul Sewer | <input type="checkbox"/> Septic Tank | <input type="checkbox"/> Cesspit |
| | | | <input checked="" type="checkbox"/> Other PRIVATE TREATMENT PLANT |
- *delete as appropriate

Note: If foul drainage is not to be via a public foul sewer, a drainage assessment will be required. Please see Question 14 in the accompanying booklet.

15. **Trees**

Does the application involve: Felling or lopping trees/hedgerows **YES/NO** (delete as appropriate)
Planting trees **YES/NO** (delete as appropriate)

16. **Materials**

Walls N/A

Roof N/A

17. **Is your application for business, retail or other commercial use?**

YES/NO (delete as appropriate) If NO go to Section 5
If YES please complete Questions 18-23 of Section 4 on page 4 of this form

SECTION 5 WHAT YOU NEED TO INCLUDE WITH YOUR APPLICATION

24. **Plans**

Please list below the plans which will accompany this application.
1:500 APPROVED TOWN PLAN AND 2:500 LOCATION PLAN

25. **Certificate of Ownership and Agricultural Holdings Certificate**
 You are required by law to complete either Certificate A or Certificate B (Ownership) and the Agricultural Holdings Certificate. It is an offence knowingly to make a false declaration.

CERTIFICATE OF OWNERSHIP: A

Complete if you are the owner of the building/land, along with Agricultural Holdings Certificate below.

I certify that: On the 21 days before the date of the accompanying application nobody, except the applicant, was the owner of any part of the land to which this application relates

Signed CHARLES F JONES & SON LLP (Applicant/Agent)

* On behalf of NORMANHURST ENTERPRISES LTD (Applicant)

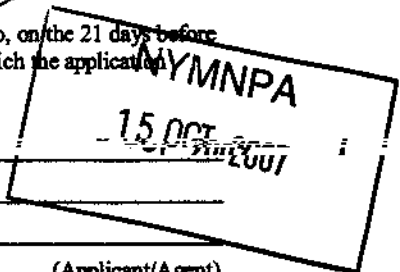
Date 11 OCTOBER 2007

CERTIFICATE OF OWNERSHIP: B

~~Complete if you are not the owner of the building/land, along with Agricultural Holdings Certificate below.~~

~~I certify that: I have/the applicant has given the requisite notice to everyone else who, on the 21 days before the date of the accompanying application, was the owner of any part of the land to which the application relates, as listed below.~~

~~Owner's name _____
 Address at which notice served _____
 Date on which notice was served _____
 Signed _____ (Applicant/Agent)
 *On behalf of _____ (Applicant)
 Date _____~~



AGRICULTURAL HOLDINGS CERTIFICATE

This section MUST be completed. Delete either A or B and complete C.

~~A. I certify that none of the land to which this application relates is, or forms part of, an agricultural holding.~~

~~B. I have/the applicant has given requisite notice to every person other than myself/himself who, 20 days before the date of the application was a tenant of any agricultural holding any part of which was comprised in the land to which this application relates:~~

~~Name of tenant _____
 Address _____
 Date notice was served _____
 C. Signed _____ (Applicant/Agent)
 On behalf of _____ (Applicant)
 Date _____~~

26. I/We hereby apply for planning permission or approval of reserved matters as described in this application and the accompanying plans. We attach:

- the necessary plans, numbered _____
- completed, dated and signed Certificate of Ownership (A or B above).
- completed, dated and signed Agricultural Holdings Certificate.
- the fee of £ 135.00 by cheque/bank order no _____

Signed CHARLES F JONES & SON LLP (Applicant/Agent)

On behalf of NORMANHURST ENTERPRISES LTD (Applicant)

Date 11 OCTOBER 2007 * delete as appropriate

CHARLES F. JONES & SON LLP

CHARLES F. JONES

Our Ref: TMB/DM/C5083

11 October 2007

Chief Planning Officer
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

16 Grosvenor Court,
Foregate Street,
Chester CH1 1HN

Telephone:
01244 328141 (Valuation, Rating & Sales)
01244 310237 (Planning)

Facsimile:
01244 344551 (Valuation, Rating & Sales)
01244 344551 (Planning)
Website: www.charlesfjones.co.uk



Dear Sir,

**RE: TOWN AND COUNTRY PLANNING ACT 1990
PROPOSED VARIATION OF CONDITION No. 4 OF PLANNING
PERMISSION NYM/2006/0838/CU. DATED 20.12.06. TO ALLOW FOR
THE DELETION OF THE HOLIDAY LETTING RESTRICTION AND
28 DAY STAY LIMITATION
LAND AT WHITBY HOLIDAY PARK, SALTWICK BAY, WHITBY
FOR NORMANHURST ENTERPRISES LTD**

Please find enclosed herewith our planning application in respect of the above matter, together with our firm's cheque in the sum of £135.00 to cover the statutory planning application fee in this instance. In consideration of this application we would ask that you treat this letter as forming part thereof.

The enclosed application is simplistic in its nature and seeks a variation of Condition No. 4 of a recent planning approval at Whitby Holiday Caravan Park under NYM/2006/0838/CU, which granted consent for the removal of 10 permanent holiday chalets and replacement thereof with 8 static holiday caravans.

Whilst permission NYM/2006/0838/CU is acceptable as a replacement planning permission for the original chalet development, we cannot accept the second part of Condition No.4 attached thereto, which is unacceptable and *ultra vires* in terms of detailing a holiday letting restriction and a 28 day stay limitation.

The restriction that all of the 8 replacement static holiday caravans can only be used for holiday letting purposes, together with the 28 day stay limitation is unduly burdensome on the park operator and is also unenforceable.

Importantly, such holiday letting and stay limitation restrictions are contrary to the current advice contained within the "Good Practice Guide on Planning for Tourism" which formally replaced PPG 21 – Tourism in September 2006.



Specialist Leisure Consultants
Valuation • Rating • Agency • Planning & Development

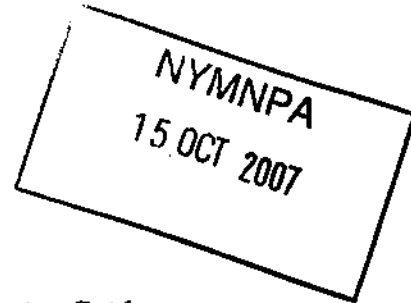
Advisors to NCC, NPHC, HCA, NFU, BALPPA, CC, Regional Advisors to BH&HPA

A limited liability partnership registered in England and Wales No. OC300815
Registered Office as above.

(2)

Chief Planning Officer

11 October 2007



To this effect, we enclose herewith a copy of Annex B of the *Good Practice Guide on Planning For Tourism* which relates to seasonal and holiday occupancy conditions.

Therein, we would draw to your attention the three separate planning conditions contained under paragraph 3 of Annex B, all of which are model conditions that adequately control the ongoing use of static holiday caravans for holiday purposes and do not include any specific "stay limitation" condition or requirement or indeed a stipulation that holiday caravans should be tied to holiday lettings only.

To further support this point, we enclose herewith two recent Appeal decisions on this very issue; both of which deal with the matter of Local Planning Authorities imposing similar *ultra vires* restrictions on static holiday caravan approvals.

With regard to Gurnard Pines Holiday Village Appeal decision dated 22nd November 2004, I would draw to your attention paragraph 8 therein, in so far as the appointed Inspector deemed a six week stay limitation condition to be "unnecessary, unreasonable and unduly restrictive".

Furthermore, this condition was deemed to be contrary to advice contained within PPG 21 at that time.

The Woodlands Park Appeal decision dated 26th January 2006, makes the additional point in relation to Circular 11/95: *The use of conditions in planning permissions* and to the fact that stay limitation conditions do not meet the "six tests" that need to be applied.

Throughout both of these Appeal decisions, it will be noted that reference is made to Annex C of PPG 21. The *Good Practice Guide on Planning for Tourism* reinforces this guidance via Annex B and is now the most up to date National Planning Guidance on the use of holiday occupancy conditions.

For the avoidance of doubt, and by way of the enclosed planning application, the revised wording of Condition No.4 of planning approval NYM/2006/0838/CU should be amended to read as follows:

4. **The static caravans hereby approved shall not be used for residential purposes and shall be restricted to holiday purposes only.**

We therefore trust that you will find the enclosed application to be in order in terms of the amendment sought and that you appreciate and understand our reasons for making this submission.

(3)

Chief Planning Officer

11 October 2007

As such, we trust that you are able to proceed towards a favourable determination. Please do not hesitate to contact this office should you require any further information or clarification.

Yours faithfully

CHARLES F JONES & SON LLP



DAVID A MIDDLETON BSc.(Hons) MRICS

Encs.

NYMNPA
15 OCT 2007

Department for
**Communities and
Local Government**

*Good Practice Guide on Planning
for Tourism*

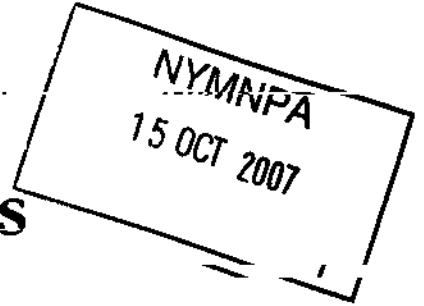
NYMNPA
15 OCT 2007

~~May 2000 reprint of 2000~~

Department for Communities and Local Government: London

ANNEX B

Seasonal and Holiday Occupancy Conditions



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 buildings 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.

2. Whilst extension of the season has these advantages, the demand for this accommodation may occur in areas in which the provision of permanent housing would be contrary to national or local policies which seek to restrict ~~development, for example in order to safeguard the countryside.~~ The planning system can reconcile these two objectives through the use of occupancy conditions designed to ensure that holiday accommodation is used for its intended purpose. Planning authorities commonly impose such conditions when granting permission for self-catering holiday accommodation. Chapter 6 above explains the general use of conditions with planning permissions.

3. One type of condition frequently used for holiday accommodation, particularly in holiday areas, is known generically as a 'holiday occupancy condition'. The aim of such conditions is generally to ensure that the premises are only used by visitors and do not become part of the local housing stock. There are three principal reasons why a planning authority might seek to do this:
 - in order that national or local policies on development of the countryside are not compromised. Often the conversion of redundant rural buildings to holiday accommodation provides a means to retain those buildings without introducing a level of activity that would occur with permanent households;

 - ~~to avoid occupation by permanent households which would~~ to avoid pressure upon local services. Permanent households may place demands for local schools and social and health services that would not normally arise from visitors. Moreover, in remote locations the cost of providing these services is greater. It may therefore be reasonable for the planning authority to place an occupancy condition when properties are being built or converted for residential use; and

 - to strengthen tourism in a particular area by ensuring that there is a wide range of properties available to encourage visitors to come there on holiday.

Planning authorities will frame these conditions according to local circumstances, and in accordance with general Government advice that conditions should be reasonable and fair. They will also need to frame them so that they can be readily entered by the authority, but in a way that is not unduly intrusive for either owners or occupants.

Controlling use of holiday caravan and other holiday park accommodation

East Riding of Yorkshire Council established a joint working group to establish the best approach to secure holiday use of caravan parks. This group comprised councillors and council officers; representatives from the British Holiday and Home Parks Association Ltd; the park operators and their agents; and the caravan manufacturers. It concluded that planning conditions needed to be stronger, requiring documentary evidence of occupiers maintaining a primary residency elsewhere to be provided.

As a result the planning committee agreed that future planning permissions for holiday caravan parks, holiday log cabins and holiday chalets should include the following conditions:

- (i) the caravans (or cabins/chalets) are occupied for holiday purposes only;
- (ii) the caravans (or cabins/chalets) shall not be occupied as a person's sole, or main place of residence;
- (iii) the owners/operators shall maintain an up-to-date register of names of all owners/occupiers of individual caravans/log cabins/chalets on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

The reason for these conditions is to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation. The register required in (iii) above shall normally be collected by the caravan site licence holder or his/her nominated person.

4. Another type of condition that may be appropriate for tourist areas is known as a 'seasonal occupancy' condition. This would seek to restrict use of holiday accommodation during particular times of year, perhaps to protect the local environment. This could be used if, for example, use of the premises or the site might affect an important species of bird during its breeding season or when it is winter feeding. Local planning authorities will need to balance the need to impose seasonal occupancy conditions with the wish to avoid exacerbating the seasonal nature of tourism in the locality and its possible adverse effects upon local businesses and jobs.





Appeal Decision

Site visit made on 2 November 2004

by **Stephanie Chivers BA(Hons) DipTP MRTPI**

an Inspector appointed by the First Secretary of State

Appeal Ref: APP/P2114/A/04/1147214

Gurnard Pines Holiday Village, Cockleton Lane, Gurnard, Isle of Wight PO31 8QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Gurnard Pines Holdings Ltd against the decision of the Isle of Wight Council
- The application Ref TCP/19380/P-P/02520/03, dated 15 December 2003, was refused by notice dated 18 March 2004.
- The application sought the variation of a conditions attached to a planning permission Ref TCP/19380/M-P/01134/03, dated 19 August 2003, for 42 holiday chalets to replace 44 caravans (Revised Plans).
- The condition in dispute is No.2 which states that the occupation of the forty two proposed holiday chalets hereby approved shall be limited to holiday use only and they shall not be occupied by an person, or family, or group of persons for a period in total exceeding six weeks in any rolling year without the prior written consent of the Local Planning Authority.
- The reason given for the condition is: the use of holiday accommodation on the Gurnard Pines complex for all year round residential occupation would conflict with policy T10 (The use of No Tourism Accommodation for Permanent Residential Use) of the Isle of Wight Unitary Development Plan.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out below in the Formal Decision.

NYM/PA
15 OCT 2007

Main Issue

1. The main issue is whether the disputed part of Condition 2 is reasonable and necessary in relation to the aims of local and national policy to support tourism.

Planning Policy

2. The development plan is the Isle of Wight Unitary Development Plan 1996-2011 (200 (the UDP). Policy T1 aims to promote and support tourism, and/or to seek to extend the tourist season, provided that any adverse impacts are minimised. Policy T10 indicates that applications for new tourist development will be approved only where the permission is subject to conditions or agreements appropriate to secure the approved holiday related use and prevent its permanent use for residential purposes. Policy T3 contains criteria against which proposals for holiday accommodation should be assessed, including that it promote the extension of the tourist season or that existing accommodation is upgraded, and that will be retained for holiday use. Planning Policy Guidance 21, *Tourism*, (PPG21) provides advice on the economic significance and environmental impact of tourism.

Appeal Decision APP/P2/14/004/1147214

NYM/INPA
15 JUN 2007

Reasons

3. The site lies within an area defined on the Proposals Map as a Permanent Holiday Accommodation Site, outside the development envelope of Cowes. It would clearly conflict with UDP policy, and with national guidance in PPG21, for the chalets to become permanent dwellings in this countryside location which is designed for holiday accommodation. However I consider that the undisputed part of condition 2, supported by appropriate monitoring, would ensure that permanent residential use would not become established. Such monitoring would not need to be intrusive, in terms of Annex C of PPG21, as use of a chalet as a base from which to go to work or school, for example, would be evident. I do not find therefore that the 6 week clause is necessary to ensure the permanent residential occupation does not take place.
4. Other aims of UDP tourism policies brought to my attention are to promote and support tourism generally, as stated in Policy T1, and to seek to extend the holiday season, referred to in that policy and in Policy T3. It is a material consideration in this appeal that the chalets are to be held, leased or to individual owners, in line with the operation of the majority of the Holiday Village. Adherence to the condition could therefore leave chalets empty for most of the year, including in the off-season if an individual, group or family chose to take most of their 6 week allowance during the school summer holidays. The long periods of vacancy would therefore fail to make the best use of the potential of the units to generate tourism income for the Island, and would not encourage the extension of the holiday season. The 6 week clause would therefore be unnecessary to secure those aims of UDP policy, and indeed would conflict with them in the circumstances which have mentioned.
5. The Council's rationale for the imposition of the disputed part of the condition is to prevent longer-term, less frequent stays, in which the chalets would amount to second home. However neither the UDP tourism policies put before me, nor their intended justification refer to a need to use the chalets only for holiday use or for holiday accommodation only. There is no support for such a condition in Circular 11/95, which refers to those which restrict permissions to holiday use only. Similarly, the reason for the condition in question, and the reason for refusal of the variation of that condition, refer only to the need to prevent use of the units for permanent residential occupation.
6. Isle of Wight Tourism confirm that the greatest demand on the Island is for high quality self-catering accommodation, for breaks which are not main holidays and for visits outside the peak summer periods. I have no reason to believe that visits by owners or occupiers of the chalets in question would differ significantly from this pattern, if the 6 week clause were removed. Furthermore, I have no firm evidence, in the form of visitor behaviour or expenditure surveys, which supports the Council's case that a less frequent turnover of chalet occupants would be harmful in that it would generate fewer visits, not only to Island attractions or to local shops, pubs or restaurants. To my mind chalet owners would be likely to invite friends and other family members, or other members of a group, to stay who would give rise to the sort of cyclical new demand for visits to Island attractions and facilities that the Council seek. I see no reason why those who are staying for a long period rather than a shorter period would be more inclined to bring their provisions with them as thus deprive local shops of income, or that the variation of the condition would fly in the face of the definition of tourism in PPG21. The clause would thus be unduly restrictive, in the absence of proven harm.

Appeal Decision APP/P2114/A/04/1149214

Appendix to Urgent Business
(TCP/19380/P and TCP/24112/1)

7. I understand that a considerable proportion of chalets on the site are bought as investment properties and are leased back to the Company for holiday lets, or are sublet directly by ~~their owners for holiday purposes~~. I acknowledge that there would be a greater amount of employment of local people to clean and service chalets if the turnover of visitors is relatively frequent. However, I do not find that the removal of the disputed clause would be a significant discouragement to subletting. I note that there is a group of chalets on the site which were granted planning permission in 2002 without the 6 week clause, and the Local Planning Authority has not drawn my attention to any specific harm which has arisen from use of those units.
8. I consider that, in contrast to the monitoring of permanent residential occupation, the 6 week clause would be difficult to enforce without the sort of intrusive checks on occupants that would be contrary to advice in Annex C of PPG21. For the reasons above and in the absence of any special justification for the disputed part of condition 2, I find that it is unnecessary, unreasonable and unduly restrictive.

Other Matters

9. I note that Cockleton Lane is narrow with no footways and is close to a Primary School, such that there may be problems of congestion near the Gurnard Pines access at certain times of day. However the chalets in question have planning permission for holiday use only. The car trips generated by use of the chalets would not therefore be associated with journeys to work or school and I do not find that the proposed variation of the condition would affect that situation. I have no substantial evidence that some units on the Gurnard Pines site are used for permanent residential accommodation, or that leases are not enforced in that regard, as suggested by neighbours. The enforcement of conditions is a matter for the Local Planning Authority. In regard to precedent, each application for planning permission must be judged on its own merits in accordance with the development plan and other material considerations.
10. I distinguish between this appeal and examples of other decisions put before me. In the appeal concerning The Barn at Highview, Wootton Bridge, the relevant condition was not ~~in dispute~~. In the appeal concerning holiday flats at Clarence Court Hotel, Shanklin was in respect of a different type of accommodation. Even so, in those particular circumstances, the Inspector did not wholly support the relevant condition, and varied it to remove "family, or group of persons" as being unnecessary, unreasonable and unenforceable.

Conclusions

11. I have considered all matters raised in the representations, but none are sufficient to outweigh the considerations that have led to my conclusions on the main issue.

Formal Decision

12. I allow the appeal and grant planning permission for 42 holiday chalets to replace 44 ~~units~~ (Revised Plans) at Gurnard Pines Holiday Village, Cockleton Lane, Gurnard, Isle of Wight PO31 8QE in accordance with the application Ref TCP/19380/P-P/02520/03, dated 15 December 2003, without compliance with condition number 2 previously imposed on planning permission TCP/19380/M-P/01134/03, dated 19 August 2003 but subject to the

Appeal Decision NYM/P2114/07/P147214

other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

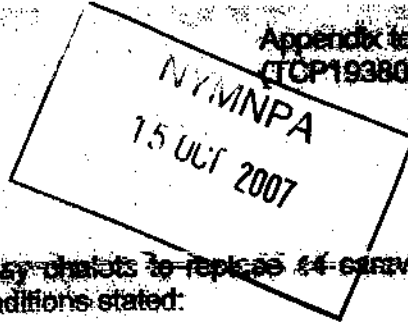
- 1) The occupation of the forty two holiday chalets hereby permitted shall be limited to holiday use only and they shall not be used as permanent or main residences.

~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~

INSPECTOR

NYMNPA
15 OCT 2007

Appendix to Urgent Business
(TCP19380/P and TCP/241



BACKGROUND

Planning permission was granted for 42 holiday chalets to replace 44 caravans at Gurnard Pines Holiday Centre. One of the conditions stated:

"The occupation of the 42 proposed holiday chalets hereby approved shall be limited to holiday use only and they shall not be occupied by any person, or family, or group of persons for a period in total exceeding six weeks in any rolling year without the prior written consent of the Local Planning Authority."

The reason for the condition was as follows:

"The use of holiday accommodation on the Gurnard Pines complex for all year round occupation would conflict with policy T10 (The Use of New Tourist Accommodation for Permanent Residential Use) of the Isle of Wight Unitary Development Plan."

The appeal relates to the refusal for the variation of the condition to:

"The occupation of the 42 proposed holiday chalets hereby approved shall be limited to holiday use only."

MAIN ISSUE OF THE CASE AS IDENTIFIED BY THE INSPECTOR:

- Whether the disputed part of the condition (the 6 week clause) is reasonable and necessary in relation to the aims of local and national policy to support tourism

CONCLUSIONS OF THE INSPECTOR:

- The site is within a Permanent Holiday Accommodation Site in the UDP
- It would clearly conflict with UDP policy and PPG21 for the chalets to become permanent residential use
- The undisputed part of the condition, supported by appropriate monitoring, would ensure permanent residential use would not become established
- Such monitoring need not be obtrusive as advised by Annex C to PPG21
- The 6 week clause is not necessary to ensure that permanent residential occupation does not take place
- It is a material consideration that the chalets are to be sold leasehold in individual owners in line with the operation of the Holiday Village
- Adherence to the 6 week clause could leave chalets empty for most of the year
- These long periods of vacancy would fail to make the best use of the units' potential to generate tourism income and would not encourage the extension of the holiday season
- The Council's rationale for the 6 week clause is to prevent longer term, less frequent stays which amount to second homes
- The UDP policies and their reasoned justification do not refer to a need to ensure that only short-term lets of holiday accommodation occur
- The reason for the 6 week clause condition refers only to the need to prevent use for permanent residential accommodation
- There is no support for the Council's condition in Circular 11/95

NYM/ 2007 / 0 8 5 0 / FL

- NW Tourism confirms the demand for high quality self-catering accommodation for breaks which are not main holidays and for visits outside the peak summer periods
- There is no reason to believe that visits by owners or occupiers of the chalets in question would differ significantly from this if the 6 week clause was removed
- Furthermore, there is no firm evidence in the form of visitor behaviour or expenditure surveys which supports the Council's case that a less frequent number of occupants would be harmful in that it would generate fewer visits per year to Island attractions or to local shops, pubs and restaurants
- The chalet owners would be likely to invite friends, family or other groups to use the chalets which would give rise to the sort of cyclical new demand that the Council seeks
- There is no reason why those who are staying for a longer rather than shorter period would deprive local shops of income
- There is no reason that the variation of the condition as proposed would fly in the face of the definition of tourism in PPG21
- The 6 week clause is unduly restrictive in the absence of proven harm
- There is no evidence its removal would be a significant discouragement to sub-letting
- It is noted that a group of chalets on the island, granted permission in 2002, without the 6 week clause has resulted in no significant harm arising from their use
- The 6 week clause would be difficult to enforce without the sort of intrusive checks on occupants that would be contrary to advice in Annex C of PPG21
- In the absence of any special justification for the 6 week clause it is unnecessary, unreasonable and unduly restrictive
- A new condition is imposed which states "the occupation of the 42 holiday chalets hereby permitted shall be limited to holiday use only and they shall not be used as permanent or main residences."

NYMNPA
15 OCT 2007



Appeal Decision

Site visit made on 16 January 2006

by Ray Yorke BA Dip TP MRTPLMRICS

an Inspector appointed by the First Secretary of State

NYMNP
15 OCT 2007

The Planning Inspectorate
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Date: 26 JAN 2006

Appeal Ref: APP/E2205/A/05/1189747

Land at Woodlands Park, Tenterden Road, Biddenden, Ashford, Kent TN27 8BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to ~~grant planning permission under section 73 of the Town and Country Planning Act 1990 for the~~ development of land without complying with conditions subject to which a ~~planning~~ permission was granted.
- The appeal is made by Mr R.E. Jessop against the decision of Ashford Borough Council.
- Planning permission was granted on 15 February 1979 under ref: AS/77/1146 for the use of land as a caravan site for the stationing of static holiday caravans for occupation during the normal summer season and winter storage. ~~The permission was subject to conditions.~~
- The application ref /05/00337/AS, dated 21 February 2005, sought planning permission for the variation of condition (iii) of permission AS/77/1146 to allow occupation of caravans between 01 March and 07 January. The application was permitted by notice dated 08 June 2005 subject to conditions.
- The conditions in dispute are set out in permission ref: /05/00337/AS and are condition 2 which ~~states that:~~ "The proposed tourist accommodation shall be used solely as specified in the application and not as independent dwelling(s) for any other purpose other or as within the use class of the Schedule of the Town and Country Planning (Use Classes) Order 1987 or any subsequent Order revoking or re-enacting that Order"; and condition 3 which states: "No person shall occupy the accommodation for more than 8 weeks in any calendar year and to this end a register shall be kept that will be available for inspection at all times by the Local Planning Authority".
- The reason given for condition 2 is "Permanent residential use would be contrary to ~~Development Plan Policies for the countryside~~".
- The reason given for condition 3 is "Permanent residential occupation would be contrary to Development Plan Policies for the countryside".
- The appellant seeks the variation of condition 2 and the deletion of condition 3.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out in the Formal Decision below.

Preliminary Matters

1. The application describes the proposed development as "variation of condition (iii) of consent AS/77/1146 dated 15/02/1979 to prohibit occupation of caravans between 8th January and 28th (or 29th) February". However it seems to me that the application is more accurately described as above and I shall consider the appeal on this basis.

Main Issue

2. I consider that the main issue in this case is whether the variation of condition 2 and the ~~deletion of condition 3 would lead to pressure for permanent residential use in an area~~ where it is desirable to protect the beauty of the area and the use of tourism facilities.

Development Plan and other Planning Policies

3. The development plan for the area includes the Kent Structure Plan (SP) adopted 1996 and the Ashford Borough Local Plan (LP) adopted 2000. SP Policy RS5 and LP Policy HG7 generally resist development in rural Kent, unless for such matters as agriculture or forestry, or for the re-use or adaptation of existing rural buildings or other specified exceptions. Policies also give long term protection to Special Landscape Areas (SLA) where priority is given to the conservation and enhancement of natural beauty.
 4. SP Policy TO3 normally permits the development of touring caravan and camping facilities and Policy TO4 normally permits proposals to upgrade existing holiday chalet and static caravan sites. Both policies are subject to criteria being met. LP Policy TM5 generally permits new or enlarged touring caravan and camping sites subject to criteria being met. ~~Policy TM6 generally resists the loss of tourist accommodation and resists proposals to convert existing tourist accommodation in the countryside into normal housing.~~
 5. The general approach of the above policies is continued in the policies of the draft Kent & Medway Structure Plan (draft SP) which has made some progress with receipt of the independent panel's report and the preparation of proposed modifications. It does not have ~~the status of a development plan document but I am able to attach some weight to it.~~
 6. National planning policy guidance is a material consideration in planning decisions. My attention has been drawn to PPG21: *Tourism*. The appellant has also referred to Circular 11/95: *The Use of Conditions in Planning Permissions*.
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7. The appeal site is within a rural area outside the confines of any settlement and within a Special Landscape Area (SLA). It forms part of a larger area which forms the Woodlands Park site. The appeal site itself comprises an L-shaped strip of land laid to grass and occupied at the time of the site visit by a small number of caravans of the touring type. To the west is an area of land mostly occupied by residential mobile homes. To the east is a further grassed area which was unoccupied at the time of the site visit but which has planning permissions for touring caravans and tents. A planning application has been made for the use of the northern part of this further grassed area for static and holiday caravans.
 8. Planning permission was granted under reference 77/1146/AS for the use of the appeal site as a caravan site for the stationing of static holiday caravans for occupation during the normal summer season and winter storage. Conditions included a restriction to prevent the use of the site between 31 October and 1 March. Planning permission was granted under reference 05/00337/AS to reduce that restricted period so that the caravans could be occupied for 10 1/4 months in each year, but was itself subject to conditions, including the two conditions in dispute in this appeal.
 9. There is no disagreement between the parties that the use of the appeal site for permanent residential accommodation would be inappropriate and contrary to the planning policies to protect the countryside referred to above. Permanent residential occupation would also lead to the loss of tourist accommodation which would also be contrary to planning policies referred to above.

10. The first part of disputed condition 2 says that "the proposed tourist accommodation shall be used solely as specified in the application and not as independent dwelling(s)....". The appellant considers that the condition is ambiguous and could be construed as allowing the caravan to be occupied only by tourists for short term holiday letting rather than for occupation as an individual's holiday retreat. The appellant has asked that the existing condition 2 be replaced by three new conditions. The Council has not objected to the rewording of condition 2 although it sees no reason to do this as it considers that the aim of the appellant's alternative suggestion would be the same.
11. It seems to me that the use of the phrase "and not as independent dwelling(s)" in condition 2 is vague and could be construed in the manner referred to by the appellant as placing a restriction on the owner of the caravan from using it for his or her own occupation. The reason for the imposition of the condition is to prevent permanent residential use. In my view, the appellant's suggested alternative conditions 1 and 2 would be adequate to achieve this intention by restricting the use to occupation for holiday purposes only and not for an occupier's sole or main place of residence.
12. The appellant's concern regarding condition 3 is that the nature of tourism is changing and that as facilities improve people may wish to take several holidays in any one year which in total may add up to more than 8 weeks. The appellant is also concerned at the difficulties in enforcing such a condition and the burden which this would place on the site owner and the possibly intrusive nature of the necessary checks. The Council objects to the removal of condition 3 as it considers that this would reduce the level of control over the caravans and that the appellant's suggestion of alternatively worded conditions would be difficult to enforce.
13. The appellant has referred to an appeal decision in 2004 at a site in the Isle of Wight (appeal reference: APP/P2114/A/04/1147214). The full circumstances of that case are not before me but there appear to me to be some parallels with the current appeal.
14. PPG21 at Annex B says that holiday and touring caravan parks will remain an important part of the self-catering holiday sector and refers to the contribution they can make to the local tourism economy. Annex C, in discussing seasonal and holiday occupancy conditions, points out that leisure demands have changed markedly and that many people take several holidays a year, with much of the demand for self-catering accommodation. It recognises that this may be located in areas in which the provision of permanent housing would be contrary to national policies of development in the country, or development policies.
15. Annex C of PPG21 suggests these objectives can be reconciled by a condition specifying use as holiday accommodation only. The Annex also indicates that seasonal occupancy conditions to prevent permanent residential use may also be appropriate. The Annex discusses how such conditions should be enforced but says that these "need not and should not require intrusive checks on occupants of holiday properties". Existing condition 4 of permission /05/00337/AS, which is not in dispute, in my view is a seasonal occupancy condition of the type referred to in PPG21. This condition prevents occupation between 8th January and 28th (or 29th) February. Existing condition 2 and the appellant's suggested alternative do not restrict the accommodation to seasonal accommodation.

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16. I see a clear need to prevent the permanent residential occupation of the caravans having regard to the planning policies for the protection of the countryside and the policies to promote tourism development. However, it seems to me that the wording of condition 3 ~~could be drafted in such a way as to require the site owner to maintain a register which could be intrusive, contrary to the guidance in PPG21. It seems to me that a condition in these terms would necessitate the site owner or operator maintaining a register in which all occupiers of each caravan would have to record their arrivals and departures. Bearing in mind that many of the caravans might not be owned by the site owner or operator, this seems to me to be not only intrusive but potentially to be a significant burden.~~
17. In my view, the deletion of condition 3 and the alternative wording of condition 2 on the lines suggested by the appellant, along with the existing conditions not in dispute, would achieve the Council's objective of ensuring that permanent residential accommodation does not take place, whilst providing a mechanism which would be easier for the Council to enforce.
18. I conclude that the variation of condition 2 and the deletion of condition 3 would provide sufficient mechanism to prevent permanent residential use in this area where policies seek to protect the countryside and to promote tourism development.

Other considerations

19. I have noted the views of local residents and Biddenden and High Halden Parish Councils relating to such matters as water pressure, electricity supply, security, maintenance, rubbish, road conditions within the site and traffic problems generally, and closeness to the boundary of the residential part of Woodlands Park. Bearing in mind that planning permission already exists for the use of the appeal site as a caravan site for static holiday caravans, I do not consider that the comments made are relevant to the current appeal which relates to the wording and appropriateness of conditions.

Conditions

20. I have considered the conditions suggested by the appellant and ~~in regard to the provisions of Circular 11/95: The Use of Conditions in Planning Permissions. I regard conditions to restrict the use of caravans to holiday purposes only, to prevent their occupation as the occupant's sole or main place of residence, and to require the maintenance of a register of home addresses of owners, as necessary in order to prevent permanent residential use and to prevent the loss of tourist accommodation.~~

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Conclusion

21. For the reasons set out above and having considered all other matters raised I conclude that the appeal should be allowed.

Formal decision

22. I allow the appeal and grant planning permission for use of land as a caravan site for the stationing of static holiday caravans for occupation during the normal summer season and winter storage at Woodlands Park, Tenterden Road, Biddenden, Ashford, Kent TN27 8BT, without compliance with conditions numbers 2 and 3 imposed on planning permission ref: ~~05/00337/AS dated 08 June 2005, but subject to the other conditions imposed therein and to the conditions imposed on planning permission ref: AS/77/1146 dated 15 February 1979,~~

so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:-

01. The caravans shall be used for holiday accommodation only.
- ~~02. No caravan shall be occupied as the occupant's sole or main place of residence.~~
03. The park owner or operator shall keep an up-to-date register of the main home address of the owner of each caravan and shall make the register available for inspection by the Local Planning Authority at all reasonable times.



INSPECTOR

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15 OCT 2007