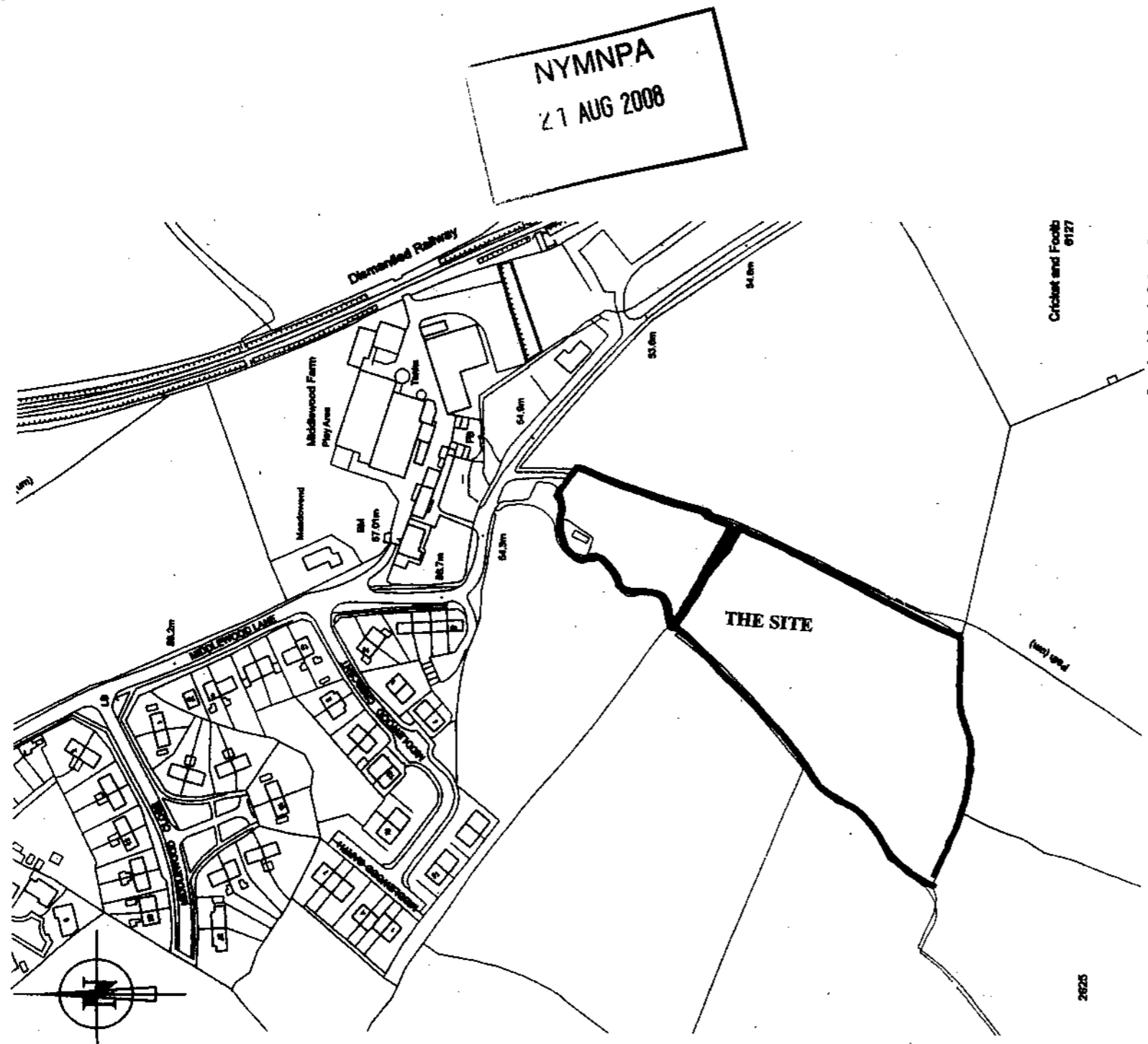


APPLICANTS: *Mr & Mrs P Beeforth,*
Middlewood Farm, Robin Hoods Bay.



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APPLICANTS
 Mr & Mrs P Beeforth
 Middlewood Farm
 Robin Hoods Bay
 Whitby
 North Yorkshire
 YO22 4UT

PROPOSAL
 Certificate of Lawful Use Application

DETAIL
 Location Plan

DRAWING No: B11/03/01

SCALE: 1:2500

REVISIONS:

© AUGUST 2008

EDWARDSON ASSOCIATES

Paddock House

10 Middle Street South

Driffield YO25 6PT

TEL: 01377 249720 FAX: 01377 259052

NYMNP A 21 AUG 2008

Grid ref NZ 94448, 04433

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

Telephone: 01439 770657
 Email: dc@northyorkmoors-npa.gov.uk
 Website: www.moors.uk.net



NYMNPA
 21 AUG 2008
 08/656
 PFI

**Application for a Lawful Development Certificate
 for a Proposed use or development.
 Town and Country Planning Act 1990: Section 192,
 as amended by section 10 of the Planning and Compensation act 1991.
 Town and Country Planning (General Development Procedure) Order 1995**

Publication of planning applications on council web sites
 Please note that with the exception of applicant contact details and Certificates of Ownership, the information provided on this application form and in supporting documents may be published on the council's website.
 If any other information that is provided as part of the application which falls within the definition of personal data under the Data Protection Act and is not to be published on the council's website, please contact the council's planning department.

1. Applicant Name, Address and Contact Details

Title: First name: Surname:

Company name:

Street address:

Town/City:
 County:
 Country:
 Postcode:

Telephone number:

Mobile number:

Fax number:

Email address:

Are you an agent acting on behalf of the applicant? Yes No

2. Agent Name, Address and Contact Details

Title: First Name: Surname:

Company name:

Street address:

Town/City:
 County:
 Country:
 Postcode:

Telephone number:

Mobile number:

Fax number:

Email address:

3. Site Address Details

Full postal address of the site (including full postcode where available)

Description:

House: 0 Suffix:

House name: Middlewood Farm Holiday Park

Street address:

Fylingthorpe

Town/City: WHITBY

County:

Postcode: YO22 4UF

NYMNPA

21 AUG 2008

Description of location or a grid reference (must be completed if postcode is not known):

Easting: 494531

Northing: 504535

4. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? Yes No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title: Mrs First name: Jackie Surname: Clarke

Reference:

Date (DD/MM/YYYY): (Must be pre-application submission)

Details of the pre-application advice received:

5. Interest in Land

Please state the applicant's interest in the land: a) Owner b) Lessee c) Occupier d) Other

6. Council Employee / Member

Is the applicant or agent related to any member of staff or elected member of the council? Yes No

7. Grounds for Application

Information about the existing use(s)

Please explain why you consider the existing or last use of the land is lawful, or why you consider that any existing buildings, which it is proposed to alter or extend are lawful:

The use sought benefits from an existing Certificate and so is lawful.

Please list the supporting documentary evidence (such as a planning permission) which accompanies this application:

Statement of appendices.

If you consider the existing or last use is within a 'Use Class' in the Town and Country Planning (Use Classes) Order 1987 (as amended) state which one:

Information about the proposed use(s)

If you consider the proposed use is within a 'Use Class' in the Town and Country Planning (Use Classes) Order 1987 (as amended), state which one:

Is the proposed operation or use: Permanent Temporary

Why do you consider that a Lawful Development Certificate should be granted for this proposal?

No change of use would occur as a consequence of this proposal.

8. Description of Proposal

Does the proposal consist of, or include, the carrying out of building or other operations? Yes No

Does the proposal consist of, or include, a change of use of the land or building(s)? Yes No

Has the proposal been started? Yes No

9. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? Yes No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

- The agent The applicant Other person

10. Declaration

I/we hereby apply for a Certificate of Lawfulness as described in this form and the accompanying plans/drawings and additional information.

Date: 19/08/2008

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21 AUG 2008

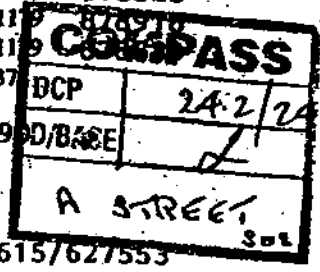


Department of the Environment

Room TX 102
Tollgate House
Houston Street
Bristol BS2 9DJ

Direct Line
Divisional Enquiries
Fax Number
GTN Code

01179 878545
01179 878978
01179 878978
137



Council's ref. RS/AR/EN/S/1/4/99

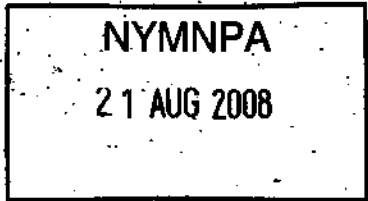
Your ref

Our ref

APP/C/93/P1615/627553

Date

10 MAR 1995



Mrs V Y Howells
Olde Garden Bungalow
Clanna
Alvington
LYDNEY
Glos
GL15 6AN

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 174
LAND AT CLANNA CARAVAN PARK, ALVINGTON, LYDNEY, GLOUCESTERSHIRE**

1. I am directed by the Secretary of State for the Environment to refer to your appeal against an enforcement notice, issued by the Forest of Dean District Council on 4 March 1993. The breach of planning control alleged in the notice was, without planning permission, the making of a change of use of land at Clanna Caravan Park, Alvington, Lydney, Gloucestershire, from use as a caravan park for holiday purposes to a caravan park for permanent residential use. The appeal against the enforcement notice was on the grounds in section 174(2)(a), (c) and (d) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, but ground (d) was withdrawn.
2. On 25 November 1993 the appeal was determined by a Planning Inspector (referred to below as "the first Inspector") following a public local inquiry. That decision was the subject of an appeal by the Council to the High Court and the matter was subsequently remitted to the Secretary of State, by Order of the Court dated 15 July 1994, for redetermination.
3. A further inspection of the site has been made by another Inspector (referred to below as "the second Inspector") who has considered all the written representations and other material before the Secretary of State. A copy of his report is appended to this decision letter as an annex and forms part of it. The appeal has been redetermined in the light of the decision letter of 25 November 1993, the terms of the Court's judgement, the second Inspector's report and all the written representations of the parties, including those made subsequent to the Court Order.



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REASONS FOR THE DECISION

The appeal on ground (c)

4. In relation to the appeal on ground (c), the Secretary of State has noted the description of the appeal site and its surroundings at paragraphs 5 to 8 of the second Inspector's report. The Court held that, in determining that the use of the site for the stationing of caravans for permanent residential use was not materially different to the use for which planning permission had been granted in 1985, the first Inspector had erroneously disregarded the off-site effects of such a change. The second Inspector, having considered both the on-site and off-site effects of the change of use, has concluded in his appraisal that the use of the site for stationing caravans for permanent residential use was not a material change of use. He recommends that the appeal on ground (c) should succeed. The Secretary of State agrees with the second Inspector in this respect and, for these reasons, accepts the recommendation.

The appeal on ground (a) and the deemed planning application

5. Because the appeal on ground (c) succeeds, the appeal on ground (a) and the deemed application for planning permission do not fall to be considered.

FORMAL DECISION

6. For the reasons given above the Secretary of State, in exercise of his powers in section 176 of the 1990 Act (as amended), hereby allows the appeal and quashes the enforcement notice.

RIGHT OF APPEAL AGAINST THE DECISION

7. This letter is issued as the Secretary of State's determination of the appeal. The leaflet C, enclosed for those concerned, sets out the right of appeal to the High Court against the decision.

Yours faithfully



R J LATHAM
Authorised by the Secretary of State
to sign in that behalf

ANNEX

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

Reference No: APP/C/93/P1615/627553

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21 AUG 2008

To the Right Honourable John Gummer MP
Secretary of State for the Environment

Sir

1. I have been asked to advise on the appeal by Mrs V Y Howells made under Section 174 of the Town and Country Planning Act 1990 against an enforcement notice issued by the Forest of Dean District Council relating to land at Clanna Caravan Park, Alvington, Lydney, Gloucestershire. On 30 January 1995 I made an accompanied site visit. A list of persons present at the site visit follows.
 2.
 - (1) The notice was issued on 4 March 1993.
 - (2) The breach of planning control as alleged in the notice is, without planning permission, change of use of the site from a use as a caravan park for holiday purposes to a caravan park for permanent residential use.
 - (3) The requirement of the notice is to cease using the site for the stationing of structures for permanent residential purposes.
 - (4) The period for compliance with this requirement is six months.
 - (5) The appeal was made on grounds (a) and (c) as set out in Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.
 3. The appeal by Mrs Howells is before the Secretary of State for redetermination. An Inspector's decision on the appeal, dated 25 November 1993, was quashed by order of the High Court. By letter dated 9 September 1994 the Department proposed that the Secretary of State should redetermine the appeal on the basis of the material already before him, together with such further representations as the parties might make, and that an officer of the Department should make a further site inspection. The letter also stated that the principal issues in the redetermination were seen as: (1) whether there has been a material change of use, having regard to both on- and off-site effects; and (2) if there has been a material change of use, whether planning permission should be granted.
 4. This report contains a description of the appeal site and surroundings, my appraisal (on the basis of my observations and the written material before the Secretary of State) of the merits of the appeals on grounds (a) and (c) and my recommendations as to the decision which might be made in this case.
- THE SITE AND SURROUNDINGS**
5. Clanna Caravan Park is situated in a rolling countryside of woods and fields on the edge of the Dean Forest Park. It lies about 1.7 km to the north west of the village of Alvington, which is situated astride the A48 Gloucester to Chepstow main road.

6. The caravan park is bounded on the east by a Class III road (3/7), on the north east by a Class IV road (40024) and on the north west by an unmade, stone surfaced, track which serves several dwellings. There is a substantial amount of mature tree and other vegetation cover on these boundaries of the caravan park, and elsewhere within the area of the park. The caravan park focuses on a dwelling and group of former agricultural buildings referred to as "Clanna" on the enforcement notice plan. To the north and north west of these buildings is an area of grassed land which, at the time of my visit, was occupied by 12 static single unit mobile homes, most of which had their own enclosed garden areas, and two touring caravans. The area of grassed land to the east and south east of the buildings and to the north of the driveway (marked "track" on the notice plan) had a number of picnic tables and dustbin points upon it, and a washing and toilet block at its west end. It had the appearance of being used by touring caravans in the summer months but none were present at the time of my visit. To the south of the group of buildings is a walled garden, mainly laid to grass. At the time of my visit this had two concrete hardstandings at its north end, seemingly unused for some time.

7. The appeal site itself is a rectangular area of land to the west of the walled garden and south west of the group of buildings. The site is about 120 metres long from north to south and about 60 metres wide. It has a substantial belt of mature trees and other vegetation along its west and south sides and a number of mature trees elsewhere. It is mainly laid to grass. There were two sizeable concrete hardstandings on the land at the time of my visit. These appear to have formed the base for substantial mobile homes or similar structures in the past. There were no caravans or structures used for habitation on the site at the time of my visit.

8. Along the route from Clanna Caravan Park to the A48 at Alvington the road is generally of single track width, the tarmac surface commonly being about 3.5 metres wide. There are a number of informal, not properly engineered and constructed, passing places. At the time of my visit, after a period of rain, the grass verges of this route were heavily eroded by vehicles passing each other. Although the section immediately to the south of Clanna is straight, a number of sections of the remainder of the route to Alvington are winding, with poor forward visibility. Visibility at the offset crossroads about two thirds of a kilometre to the south of the appeal site is very poor, as is the visibility to the left at the junction between the route and the A48 at Alvington. The route lacks footways and lighting. The three routes linking the caravan park to the B4228 and B4231 roads to the west and north of the appeal site are all of single track width, with limited passing facilities and poor alignment and forward visibility.

APPRAISAL

The appeal on ground (c)

9. I take the view, having regard to the terms of the planning permission, and of the planning application and its associated documents, that the 1985 planning permission was for the use of the appeal site for the stationing of caravans for human habitation for the purposes of holidays. It is not disputed that, following the grant of planning permission in 1985, the site had been used for the stationing of caravans for holiday purposes and that, more recently and before the date of issue of the current enforcement notice, the land had been used as a caravan park for permanent residential use, as alleged in the notice. In the

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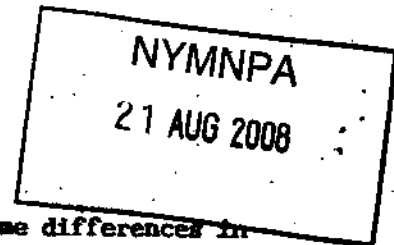
21 AUG 2008

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7 AUG 2008

circumstances I consider that the main matter to be decided under ground (c) is whether, as a matter of fact and degree, in this case, the change of use from holiday caravans to caravans for permanent residence constitutes a material change of use, taking into account any relevant on-site and off-site effects.

10. It appears to me, from the evidence of the past appeal decision letters, that both when in use as a caravan site for holiday purposes and later when occupied for permanent residential use, the appeal site has not been fully occupied by accommodation units. In the circumstances I have concentrated, when comparing the holiday use and the later residential use, on assessing the character of the use in general terms, rather than on seeking to determine the precise manner in which different parts of the site had been laid out and used at relevant times in the past.

11. It seems to me that, whether the accommodation on the site was in use by holidaymakers or by permanent residents at a particular time, while the occupants were based at the site they would have used their accommodation, and the site, as their homes. Whether the occupants were on holiday or in permanent residence the accommodation units would have been used for eating and drinking, sleeping, washing and relaxing, for all of the activities associated with normal domestic existence. Likewise, whether the site was in use by holidaymakers or permanent residents, the land around the units would have been used for parking vehicles, for the storing of domestic impediments, the hanging of washing or just for sitting in the sun. The basic character of the use of the site would have been the same, whichever category of occupant had been in residence. When the site had been used for holiday purposes there would have been a sizeable amount of vehicular and pedestrian traffic associated with the use, in terms, for example, of recreational and shopping trips by the holidaymakers and visits by dustmen and tradespeople to service the accommodation. I think it likely that when the site came to be used for permanent residence there would have been some increase in the overall number of vehicular and pedestrian movements associated with a given residential unit and some changes in the purposes behind the movements. Thus, for example, there are likely to have been trips to and from places of work, and schools, which would not have arisen when the site had been used by holidaymakers, and visits from friends and neighbours. Nonetheless I do not think that the basic scale and character of the trip generation associated with the land would have changed. I recognise that permanent residential use would have had some effects on the wider locality which the holiday use would not have had. For example permanent residential use would have created a requirement for some school and health facilities in the locality. However in a number of other respects, such as requirements for water supplies, refuse disposal, food shopping and informal recreation facilities, the effects on the locality of holiday use and permanent residential use would have been similar. I take the view, following on from what I have said above, that the change to permanent residential use would have had some effects on the locality in regard to traffic movements - in terms of some increase in the total amount of traffic using the roads and an increased tendency for movements to be concentrated at peak hours. It is also the case that occupation of the site by holidaymakers would have had a seasonal pattern, with limited occupation in the winter months, whereas the permanent residential occupation would have occurred throughout the year. But the holiday occupation would have been likely to have taken place for a very substantial part of each year, and at times of year when the impact of the residential use on the site and its surroundings would have been at its greatest.



12. Overall, although I recognise that there were some differences in the use of the site and in the effects of the use of the site on its surroundings, between when it was occupied by caravans for holiday purposes and when it was occupied for permanent residences, I conclude, as a matter of fact and degree, on the balance of probability, that the character of the use did not change to such an extent as to have constituted a material change of use requiring planning permission.

The appeal on ground (a)

13. If the appeal on ground (a) falls to be considered then in my opinion there are three main issues to be examined. These concern: first, the general acceptability of the use of the site, in its countryside setting, as a caravan park for permanent residential use, bearing in mind the relevant settlement and other policies for the area; second, the effects of the use on traffic safety on nearby roads; and third, the effects on the appearance and character of the surrounding area and on the residential amenities of the occupiers of dwellings near to the caravan park.

14. On the first issue I saw at my inspection that the appeal site has an isolated location some distance from the nearest recognised settlement, and from schools, shops, health and community facilities and employment centres. The policies of the county structure plan seek to focus residential development at main centres of employment and in settlements with community facilities and services. Policy H6 of that plan makes a presumption against residential development in rural areas, except that essential for agriculture or forestry. No such exceptions are claimed in this case. Policy FH17 of the draft local plan indicates that proposals for the stationing of caravans for permanent residential occupation will be subject to the same policies as those for permanent dwellings. That policy is applicable to this case. These policies appear to be relevant and up to date and I attach weight to them. In the circumstances I conclude that allowing the appeal on ground (a) would be contrary to established planning policies for the area, an interest of acknowledged importance. I appreciate that the site has a planning permission for the stationing of holiday caravans, but that does not justify setting aside what I regard as a weighty policy objection, bearing in mind that permanent residents of the site would be more dependent on schools, employment and some other local facilities and services than holidaymakers would be. In my view this weighty objection to the grant of planning permission could not be overcome by the imposition of conditions on a planning permission or by other means of planning control.

15. Turning to the second issue I concluded from my inspection that the network of local lanes serving the caravan park is of very poor quality in terms of road widths, alignment and visibility. In my view any significant increase in the volume of traffic using these roads would be damaging to traffic safety there. I appreciate that the approved use of the appeal site for caravans for holiday purposes would generate a sizeable amount of traffic and I note that the planning permission is not subject to any seasonal restriction. However, following what I have said at paragraph 11 above, I consider that the use of the site for permanent residential caravans would be likely to generate somewhat higher volumes of traffic than a holiday use and that the traffic associated with the site would be concentrated more at the peak hours. While in many locations these differences would not have any appreciable effect on traffic safety I consider that in the setting of the appeal site, with its very poor road

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21 AUG 2008

access, they would be significant and would have damaging effects on traffic safety. In my view this objection to the development subject of the notice could not be overcome by the imposition of conditions on a planning permission or by other means of planning control.

16. Regarding the third issue I consider that the appeal site is hidden from public views; from the north by other parts of the caravan park, from the east by the walled garden, and from the south and west by good belts of vegetation on the edges of the appeal site itself. Therefore it is not conspicuous in the landscape. If used for permanent residential occupation it is likely that the site would be occupied by substantial caravans of the mobile home type and that features such as enclosed gardens, parking hardstandings and sheds would be placed on the land. But under the present planning permission caravans, as statutorily defined, including mobile homes within the defined size limitations, could be stationed on the land and used for holiday purposes all year round, and the other features to which I have referred could accompany a use by holidaymakers only. Bearing in mind that the site is well screened I do not consider that a change to permanent residential use would lead to demonstrable harm to the appearance of the surrounding area. In my opinion the additional traffic associated with permanent residential use as against holiday use would not be sufficient to cause demonstrable harm to the quiet rural character of the area. Bearing in mind the distance between the appeal site and the nearest dwellings outside the caravan park and the substantial screening around the appeal site the use of the site for the siting of caravans for permanent residential use would not cause demonstrable harm to the residential amenities of the occupants of neighbouring dwellings.

RECOMMENDATION

17. I recommend that the appeal on ground (c) should be allowed. If the appeal on ground (a) falls to be considered I recommend that it be dismissed.


A J J STREET MA(Oxon) DipTP MRTPI-
PINS

17 February 1995

PERSONS PRESENT AT THE SITE INSPECTION

Mrs V Y Howells - Appellant

Mr R V Howells - Appellant's husband

Mr A Isles - Enforcement Officer with the Forest of Dean District Council



NORTH YORK MOORS NATIONAL PARK AUTHORITY

A member of the Association of National Park Authorities

The Old Vicarage, Bondgate, Helmsley, York. YO6 5BP
Tel: 01439 770657 Fax: 01439 770691

David Arnold-Forster, OBE, TD
National Park Officer

Your ref: **JRMR/JFM/20996**

Date: 17 September 1997

Our ref: **LT/ENF/97/434**

RECEIVED
19 SEP 1997
POST OFFICE

NYMNPA
21 AUG 2008

Dear Mr Ridgwell,

Mr & Mrs P Beaforth - Field OS 4339, Middlewood Farm, Fylingthorpe

I write with reference to your letter of 4 September 1997 regarding the above matter and I note the contents.

At the time of the first site inspection it was considered that the increase in number of caravans was significant enough to consider taking enforcement action, however as the situation now appears to have improved, we will not be pursuing the matter further at the present time.

Thank you for your co-operation in this matter.

Yours sincerely

Miss Lisa Turnbull
Enforcement Assistant

Mr J R M Ridgwell
Fleury Manico
Pavilion View
19 New Road
Brighton
East Sussex
BN1 1UF

WP38M598.LT

proximity to the pavement meant it was not possible to provide off-road parking. However, the council served that the site lay close to the city and bus and tram stops. She decided that the inconvenience of parking on local streets acted as a disincentive to car ownership. She stated that the highway authority had not objected and allowed the appeal.

DCS Number OT100-047-707

Inspector Jacqueline North; Hearing

RESIDENTIAL DEVELOPMENT

Landing pad turned down in green belt

An enforcement notice requiring the owners of agricultural land in the Cheshire green belt to remove it for landing and taking off helicopters to remove a hangar has been upheld after an inspector decided that the appellants were not to be able to continue the use without a planning permission.

The appellants said that another landing pad had already been installed when they bought the property. However, the area for landing and taking off was moved after it was decided that the site was unsafe after dark. They stated that in order for permission on the appeal site they would remove the original landing pad and redevelop the domestic permitted development rights.

The inspector decided that this offer could be of only limited value because the former pad had had a small impact on the green belt. He considered reservations as to whether it lay in the rear of the house. If it did not there were no reserved development rights, he reasoned.

He agreed in principle that the provision of a landing pad and hardstanding to accommodate a helicopter for the appellants' personal use would be permitted under classes E and F, part 1, schedule 2 of the General Permitted Development Order. However, this would require the felling of a number of trees subject to an unconfirmed planning permission order. The council had indicated that consent to fell some of the trees would not be granted if the order were confirmed. He decided that the fallback position was not a possibility.

He concluded that the material change in the use of the agricultural land together with the removal of a hangar had materially affected the character of the green belt. He did not believe that installing less intrusive land lights, resurfacing the concrete pad and concealing the oil storage tank would materially reduce the harm.

DCS Number OT100-047-642

Inspector Derek Thew; Inquiry

Access rejected next to dwellinghouse

An enforcement notice alleging that an access had been created next to a dwellinghouse in Oxfordshire has been upheld after an inspector rejected the claim that it was permitted development.

The appellant claimed that the access was permitted under class B, part 2, schedule 2 of the General Permitted Development Order 1995, which allows the construction of a vehicular access where it is required in connection with development permitted by any class in the schedule. He asserted that in April 2006 a hardstanding was created in the curtilage of his property that had been permitted under class F, schedule 2 of the order.

The inspector proceeded on the basis that the

PLANNING PERMISSION



LONDON BOROUGH OF CAMDEN

Lightwell detail foils pub conversion

The conversion of a pub in a north-west London conservation area to four flats has been rejected because insufficient details had been provided on proposed lightwells.

The inspector agreed with the council that the amount of light that would be available to occupiers in the two basement flats would fall below the Building Research Establishment (BRE) recommended level. However, neither this guidance nor additional information in the council's supplementary planning document were mandatory, he held. The appellants had submitted an amended plan that proposed the use of French doors, allowing the minimum BRE standards to be met, he added.

But his conclusion was outweighed by the introduction of lightwells. He noted that there was no lightwell on the original building and other buildings in the conservation area had been spoilt by insensitive changes. He decided that in the absence of full details about how the lightwell would look, together with details of the walls' external finish below ground level, the scheme would undermine the conservation area's character.

DCS Number OT100-047-663

Inspector Ken Barton; Hearing

hardstanding was permitted under class F, noting that the council had not decided to take enforcement action against it. However, he also recorded that the access had been started in July 2005. The hardstanding in the curtilage of the dwelling was not undertaken until April 2006 and he therefore reasoned that the access had not been "required in connection" with its formation. On that basis he upheld the notice.

DCS Number OT100-047-667

Inspector Victor Ammoun; Hearing

LEISURE AND ENTERTAINMENT

Caravan park intensification held lawful

An enforcement notice requiring the removal of ten caravans from a caravan park in north Wales has been struck down after an inspector decided that there had been no material change of use.

The appellant stated that the land subject to the enforcement notice had been used as a caravan park since at least 1979 and was immune from enforcement action. There were no physical barriers between those areas where caravans had

been sited and the ten additional caravans. The siting of the extra caravans had not led to a material change in the character of the use of the site and so permission was not required, he argued.

The council maintained that the construction of the hard surfaces on which the caravans were sited had been carried out within the past four years. The increase from 14 to 24 caravans had altered the land's appearance and the increased activity had led to a material change through intensification, it claimed.

The inspector was satisfied that the land had been used as a caravan site since 1979. He noted that a significant proportion of the site remained open for amenity and recreational purposes and it was well screened. The increase in activity was confined to the site so he held that the increase in caravan numbers had not involved a material change in its lawful use.

DCS Number OT100-047-652

Inspector David Sheers; Inquiry

MINERAL DEVELOPMENT

Surface mining allowed at green belt site

The secretary of state has accepted an inspector's recommendation to grant permission for surface mine coal extraction in the Derbyshire green belt after finding that the environmental effects would be acceptable.

The secretary of state agreed with the inspector that there would be a material loss of openness for the duration of the extraction but that it would be made good on the restoration of the site. She considered evidence about whether the proposal would harm the hobby, a statutorily protected bird, but decided that although there would be some impact the mitigation proposed would prevent material harm to the species.

She also agreed that although the loss of 14 trees would be regrettable and contrary to PPS9, it would be acceptable due to their relative isolation. She accepted that the restoration proposals would ensure that the site's ecological and biodiversity value would be significantly enhanced.

DCS Number OT100-047-734

Inspector Andrew Phillipson; Inquiry

MIXED USE DEVELOPMENT

Food store rejected in conservation area

A scheme in a South Yorkshire conservation area comprising a food store, restaurants, housing and a hotel has been rejected after an inspector decided that there was no compelling need for further convenience goods floor space.

The appellants proposed a 7,900m² food store with 2,210m² devoted to comparison goods. They argued that the site lay on the edge of a town centre and that there was a clear quantitative need for the scheme. They also claimed that an alternative town centre site was unlikely to deliver a food store capable of meeting identified need.

The inspector ruled that the actual position on quantitative need lay in between the appellants' retail assessments and the council's estimates. He decided that the amount of expenditure that would have to be clawed back by the scheme was unrealistically high and heavily dependent on a number of assumptions. He therefore decided that although the comparison goods floor space could be supported the need for 3,320m² of convenience floor space had not been proven.