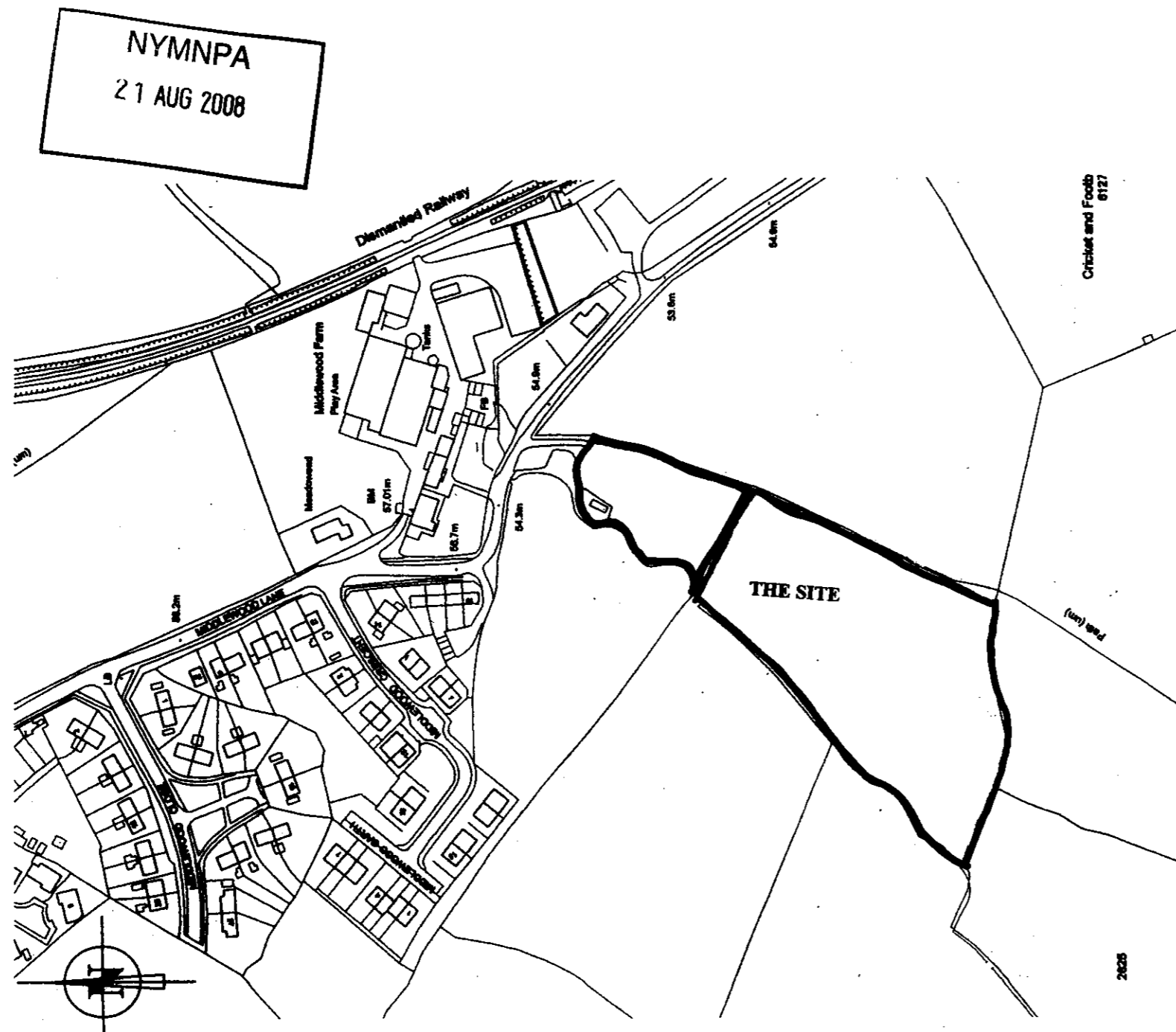


APPLICANTS: *Mr & Mrs P Beeforth,*
Middlewood Farm, Robin Hoods Bay.

NYM / 2008 / 0657 / CLP



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

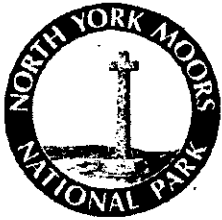
Paddock House

10 Middle Street South

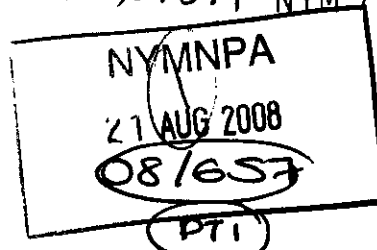
Driffield YO25 6PT

TEL: 01377 249720 FAX: 01377 259052

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Grid ref NZ9441S,04374 NYM 2008 / 0657 / CLP



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

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as part of the application which falls within the definition of personal data under the Data Protection Act and is not to be published on the council's website, please contact the council's planning department.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

Form 1: Applicant Name, Address and Contact Details. Fields include Title (Mr), First name (Peter), Surname (Beeforth), Company name, Street address (Middlewood Farm Holiday Park, Robin Hood's Bay), Town/City (Whitby), County (N Yorkshire), Postcode (YO22 4UF), Telephone number, Mobile number, Fax number, and Email address. Includes a checkbox for 'Are you an agent acting on behalf of the applicant?' with 'Yes' selected.

2. Agent Name, Address and Contact Details

Form 2: Agent Name, Address and Contact Details. Fields include Title (Mr), First Name (Roy), Surname (Edwardson), Company name (Edwardson Associates), Street address (Paddock House, 10 Middle Street South), Town/City (Driffield), County (East Yorkshire), Country (UK), Postcode (YO25 6PT), Telephone number, Mobile number, Fax number, and 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

NYM / 2008 / 0657 / CLP

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

NYMNPA
21 AUG 2008



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EDWARDSON

ASSOCIATES

Planning & Diversification Consultants

Mrs Jackie Clarke
Senior Enforcement Officer
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP

NYMNPA

21 AUG 2008

08 August 2008

Dear Mrs Clarke

Certificate of Lawfulness Applications: Proposed use of Approved Caravan and Camping Site for caravans and tents between 1 March and 6 January in the following year.

Middlewood Farm Holiday Park, Robin Hood Bay

I would be grateful, therefore, if you could give consideration to the information set out below which reflects and expands on the points originally put to you in connection with the way the site can be used.

Two separate applications have been submitted, both being supported by the same case as outlined in this letter. The forms are essentially the same but numbered 1 and 2 so that the different implications of the use being proposed can be evaluated separately. Two fee cheques are enclosed as appropriate.

One application (numbered 1) seeks to confirm that the site can be used from 1 March to 6 January in the following year. This application also seeks confirmation that the tenting area can be utilised irrespective of whether the approved tenting area elsewhere on the farm is full or not. To summarise, the application proposes to use the site from 1 March to 6 January with no constraint on the time within this period that tents can use the site. The area for caravans and that for tents is shown coloured in the same way as the plan attached to the original Certificate.

The second application (2) seeks confirmation that there is no control over the number of tents or caravans that can use the site (other than any restraints imposed by way of the Site License), provided that tents remain in the 'approved' tenting area and caravans are restricted to the area 'approved' for caravan use. Again, the plan has been coloured in the manner of the original Certificate.

The Extant Certificate

The Certificate of Lawfulness issued for this site under reference NYM4/29/125A/PA allows the use of the site by touring caravans and tents. It remains the 'approval' under which the site operates. The proposals the subject of these 2 current applications relate to the way it is proposed to use the site and seek to confirm that the site can operate in the manner requested by way of the applications without the need for any further formal planning consent.

www.edwardsonassociates.com
Email: info@edwardsonassociates.com

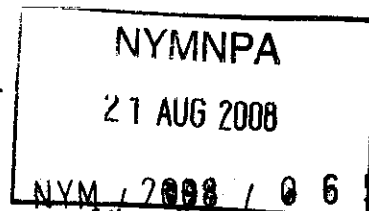
Specialists in Farm & Estate Diversification Tourism, Leisure & Grants
Trading name of Edwardson Associates Limited - Registered in England No. 4413614

Paddock House

10 Middle Street South

Driffield • East Yorkshire • YO25 6PT

Tel 01377 249720 • Fax 01377 259052



On the face of it, the Certificate simply allows use of the site by caravans and tents.

The key element of the Certificate in terms of controlling the types/number of units which can occupy the site rests with the description of the development given on the decision notice and what effect this and the supporting documents put in with the application have in terms of the on-going use of the site after the decision was issued.

It would appear that the main issue is whether or not the description given on the Certificate/ background/supporting documents have any on-going effect in controlling the way in which the site can operate, with particular regard to the statement from the applicant, Mr Beeforth, dated 6 April 1996.

Interpretation

Certificate of Lawfulness decisions are not the subject of conditions with the only restraints (other than the definition of the site area) being by way of the description of the development found to be lawful. The Local Planning Authority should include sufficient detail in the description of the development to enable any future material change of use to be assessed. In this case, the National Park Authority set out the description in detail, making particular reference to the statement submitted by the site owner setting out how the site operated. Circular 10/97 acknowledges the importance of being able to assess potential future changes of use (paragraph 8.16).

The detailed wording in Schedule 1 of the Certificate does not in any way control the use in itself beyond certifying that use as a caravan and camping site is lawful. As the lawful use of the land, any later intensification of use needs to be assessed against the benchmark of the level of use provided by the Schedule 1 description.

Case law has helped clarify the extent to which the description of the development provides any on-going means of control as to how the development can be used in the future in terms of planning applications.

It is generally accepted that the "intention" of an application is not a key factor in determining the meaning of consent – ordinarily, the imposition of enforceable conditions or otherwise is at the heart of interpreting the effect of a consent on future use.

In this case at Middlewood Farm, "intention" in terms of the statement submitted in support of the submission is not considered to be of key importance given the parameters of the application were to seek lawfulness in respect of the use of the land, not any specific level or season of use as may have been the case if the submission had been part of a formal planning application. This certificate cannot be interpreted as limiting the use specifically to 20 caravans and 80 tents – the only limitation would occur at the point where any intensification of use could be regarded as representing a material change of use.

I would draw your attention to the commentary in the Encyclopaedia of Planning Law and Practice relating to the 1960 Caravan Sites and Control of Development Act which

21 AUG 2008

NYM / 2008 / 0057 / CLP

clarifies that, in the absence of planning conditions, a caravan site is just that with any additional control resting with the Site Licensing Authority only. In the absence of conditions constraining caravan numbers a material change of use would not be regarded as having occurred if the number of units is varied. Whether or not the original submissions referred to 20 caravans is not the determining factor here as no specific planning condition could be imposed.

I would also draw your attention to the commentary in the Encyclopaedia of Planning Law and Practice relating to the issue of the description given to development. Page 2 – 3314 confirms that unless controlled by way of a condition, any restraint effectively imposed by way of the description/wording integrated within the Decision Notice is only transient – after the consent has been implemented, any change in the way in which development is used/occupied needs to be looked at in the context of whether or not a material change of use has taken place. This starting point is equally relevant in this case – the key judgement is not whether the level/season of use is precisely as described on the Certificate but if the level/season of use now being sought represents a material change of use.

The *I'm Your Man Limited versus the Secretary of State for the Environment* case of 1998 explains that departing from any restriction effectively being imposed by way of the wording in the description given to a development on a Decision Notice does not in itself constitute a breach of planning control (as would be the case if such a change were in conflict with the wording of a specific condition).

With regard to Middlewood Farm, this land was and is used by a mix of touring caravans and tents. When the Certificate was first issued, the site operated as is provided for by way of the wording on Schedule 1. In the absence of any conditions specifically restricting the use, the site can now be used for any number of caravans and tents provided such use does not represent a material change.

This moves matters onto whether or not a material change of use can be said to have occurred if either caravan/tent numbers or season of use change at a later date.

I enclose a copy extract of possibly the most significant case in relation to issues such as this. (Appendix I). In the appeal case referred to the original permission was allowed on appeal in 1985, the Inspector granting permission "for the change of use of land at Clanner Caravan and Camping Park, Alvington, Near Lydney, from rough amenity land to use for camping and siting of caravans in accordance with the terms of application ...".

The original Inspector referred to the statement on behalf of the appellants at that time that the use was to be for the holiday season. Despite this clear intention, the fact that this consent was implemented on the basis of holiday use by tents and caravans and then moved into residential use meant that the key consideration was whether or not there had been a material change of use as a consequence, that judgement being assessed on various potential impacts as set out in the attached letter from the second Planning Inspector.

You will note in paragraph 7 that at the time of the Inspector's visit there were only 2 concrete hard standings sufficient for substantial mobile homes or similar on the site.

21 AUG 2008

NYM / 2008 / 0657 / CLP

You will see that caravan consent is considered to relate to the stationing of caravans for human habitation, although in this case it was for the purpose of holidays in the first instance. Paragraph 9 of the Inspector's letter noted that there was no dispute that the site had been used for holiday purposes.

As such, the only judgement was to whether or not, as a matter of fact and degree, a material change of use had occurred taking into account on-site and off-site effects.

On site/off site effects

I would suggest that the on-site and off-site effects of permanent residential use (as looked at in the appeal referred to) would be considerably more significant than any effects associated with a few more holiday caravans and/or tents – where the extant Certificate specifically allows for caravans and tents. The Certificate acknowledges that the site is lawful for use by up to 20 caravans on the area shown edged blue on the plan forming part of this application and for up to 80 tents on the area outlined red. The description of the development also indicates that the tenting area had been used as an overspill once the tenting field with formal planning permission is full.

Officers have already acknowledged that the use of the site can be intensified to some extent within the terms of the Certificate of Lawfulness, an increase being accepted by the Authority in 1997 (letter dated 17 September 1997 attached as Appendix II refers).

As you know, there are many cases where the issue of an intensification of use relating to a sui generis activity benefitting from Lawfulness have been closely scrutinised, with cases involving haulage business and numbers of HGVs being the point at issue. Very significant increases in vehicle numbers generated from sites have been held not to represent a material change of use.

There are parallels with caravan sites where a proportionately large increase in numbers has been held not to comprise a material change of use. The summary case at Appendix 3 relates to an increase in numbers of over 70% as well as an increase in the area of land used to site vans. Nevertheless, the increase in numbers was not held to entail a material change in the Lawful use of the site.

In this case at Middlewood Farm the areas for caravan and tent use are specifically defined and so the potential increase in either type of unit is limited by the areas set out in Schedule 2 of the Certificate of Lawfulness. Overall numbers could not increase by the 70% plus increase referred to in Appendix III. There is limit on the scale of any increase in caravan numbers due to the small size of the Lawful site.

The Encyclopaedia of Planning Law and Practice specifically refers to caravan sites in looking at intensification as a material change of use. Paragraph P55.51(10) refers to numbers of caravans, be that 3 or 300, still being a caravan site and that an increase in numbers would need to result in a material change in the character of the use to require planning consent.

In this case it is important to try and assess if the effects of using the site as now being sought will have a materially important different impact on the character/amenities of the area. The three key points in Schedule 1 of the Certificate relate to the period of

use of the site, the number of caravan/tent units and the extent to which the other tenting area is fully utilised. It is important to note that the site is used as a caravan and camping park only – there is no other use of it at times when not in use by caravans/tents. The land is, therefore, a caravan/camping site and nothing else throughout the year. If the wording of the Certificate is held to potentially restrict use during the periods when caravans have not been on the site historically or when the main part of the camping area is not full, the issue of the material difference to the character and amenities of the area still needs to be carefully assessed.

One of the key considerations is the fact that the main caravan and camping facilities will operate here in any event and visitors will come to the site irrespective of how the fields the subject of this application operate. There will be no perceptible difference if people stay on the main part of the Park until it is full and only then spread onto the application site – total traffic movements to the site and visitors stopping on the Park as a whole will not change. This part of the Schedule 1 parameters clearly serves no planning purpose in terms of the impact of the use of the site on the area.

Similarly, if the time of year when specific numbers can use the site follows the parameters of the Certificate this simply means that tents and caravans will use other parts of the site without such constraints, leading to essentially the same levels of overall activity/numbers. The wider Park-wide factors need to be looked at, including the fact that wherever people stay on the Park will not have any materially different effect on the amenities of the area – there will be the same number of car/visitor journeys along the highway and the same activity levels in terms of potential neighbour impacts. A few more caravans and/or tents on this part of the site with less elsewhere should have a neutral impact but even if there were to be a modest increase in numbers at certain times of the year this would be de minimus in terms of its effects.

At peak times of the year the site is full in any event and any small overall increase in numbers here, and therefore on the site as a whole, will not be perceptible given the overall level of visitor activity on the site and in the general area, being a visitor 'honeypot' generating considerable visitor numbers. The potential differences in the way the site is proposed to be used compared to the terms of the Certificate are not seen as having a materially different impact on the area and are not considered to represent any material change of use.

It should be remembered that the level of use will be modest in the winter months in any event and the winterised static caravans on the Park (being both suitable for winter use and allowed to operate the full 12 months of the year) are likely to generate more activity than the this part of the touring/camping site.

Conclusion

The use of this land as a caravan and camping site is Lawful. The Site Licencing regime controls numbers of units and ordinarily the planning process would not endeavour to specifically limit number or try and moderate unit numbers at different times of the year. The existing use on the site and the overall use of the whole visitor enterprise at Middlewood Farm are important factors in assessing if the modest changes to the way the site operates constitute a material change of use. The on site and off site effects are likely to be of no material consequence. The legislation relevant

to caravan parks and case law relating to intensification of use issues do not support the view that this proposal represents a material change of use.

I look forward to receiving the Certificates as soon as possible but should you require any additional information pleased do not hesitate to contact me.

Yours sincerely



Mark Southerton
BA (Hons) MRTPI

Encs:

cc: Mr P Beeforth

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21 AUG 2008

NYM / 2008 / 0657 / CLP



Department of the Environment

Room TX 102
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Houlton Street
Bristol BS2 9DJ

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Divisional Enquiries
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GTN Code

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Council's ref. RS/AR/EN/S/1/4/93

Your ref

Our ref

APP/C/93/P1615/627553

Date

10 MAR 1995

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|-------------|
| NYMNPA |
| 21 AUG 2008 |

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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21 AUG 2008

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.

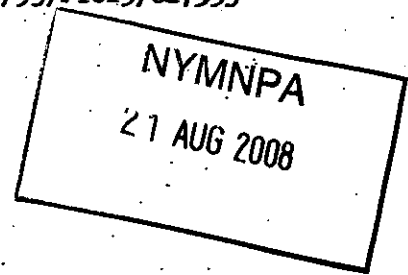
Yours faithfully



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

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

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



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.

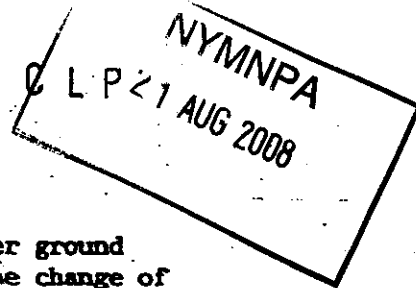
8. Along the route from Clanna Caravan Park to the A48 at Alvington the road is generally of single track width, the tarmac surface commonly being about 3.5 metres wide. There are a number of informal, not properly engineered and constructed, passing places. At the time of my visit, after a period of 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

NYM/MSA
21 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.

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21 AUG 2008

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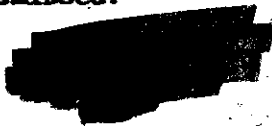
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access, they would be significant and would have damaging effects on traffic safety. In my view this objection to the development subject of the notice could not be overcome by the imposition of conditions on a planning permission or by other means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

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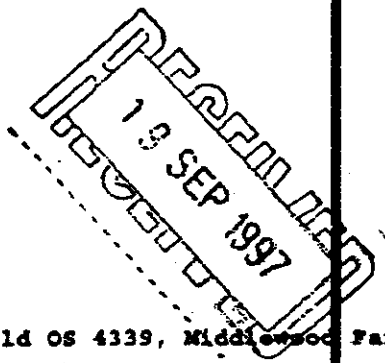
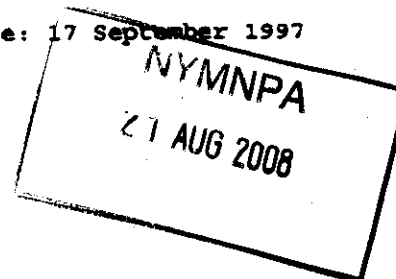
NORTH YORK MOORS NATIONAL PARK AUTHORITY

*A member of the Association of National Park Authorities*The Old Vicarage, Bondgate, Helmsley, York. YO6 5BP
Tel: 01439 770657 Fax: 01439 770691David Arnold-Forster, OBE, TD
National Park Officer

Your ref: JRMB/JFM/20996

Our ref: LT/ENF/97/434

Date: 17 September 1997



Dear Mr Ridgwell,

Mr & Mrs P Beeforth - 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 you co-operation in this matter.

Yours sincerely


Miss Lisa Turnbull
Enforcement AssistantMr 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 able to provide off-road parking. However, served that the site lay close to the city and bus and tram stops. She decided that convenience of parking on local streets acted as a disincentive to car ownership. She noted that the highway authority had not allowed the appeal.

number OT100-047-707
or Jacqueline North; Hearing

SEHOLDER DEVELOPMENT

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.

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.

Lightwell detail foils pub conversion
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.

Lightwell detail foils pub conversion
DCS Number OT100-047-663
Inspector Ken Barton; Hearing

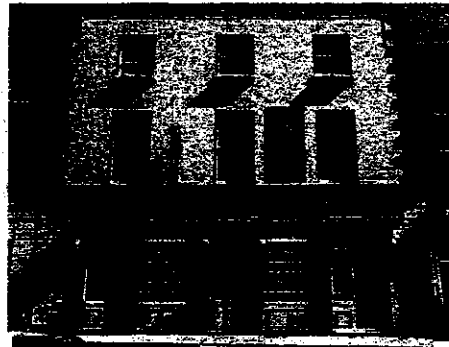
number OT100-047-642
or Derek Thew; Inquiry

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.

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.

Inspector proceeded on the basis that the

HOUSING CONVERSION



LONDON BOROUGH OF CAMDEN

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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.