

The Planning Officer
North York Moors National Park Authority
The Old Vicarage
Bondgate
HELMSLEY
North Yorkshire
YO62 5BP

Our reference: ALL 10 01

14 November 2011



Dear Sir or Madam

Certificate of Lawfulness – The Flask Inn Holiday Home Park

We have been asked to undertake a detailed assessment of the planning history of The Flask Inn Holiday Home Park to try and clarify how the site can operate within the terms of the extant planning consent. The key findings are set out below.

This letter comprises the supportive documentation in connection with the Certificate of Lawful Use application. The application seeks formal confirmation of the planning position to enable the applicant to decide how best to take the Park forward and, potentially, to enable a new site license to be sought. The application relates to the proposed use of the land identified on the submitted plans for the siting of static holiday caravans.

Planning History

The planning history in relation to caravan uses of land in this part of Fylingdales dates back to before the introduction of the Caravan Sites and Control of Development Act 1960. There were a series of applications around The Flask through the 1950s and early 60s which included consents for both chalets and caravans. However, the key consents relating to the land parcel the subject of this submission are subsequent to these.

Application 4/29/60 was refused on 10 December 1975 in respect of a scheme to extend the site to allow use by a total of 69 caravans. Although refused, this application is of considerable importance to the understanding of the current position in terms of the use of the site. Unfortunately, this file appears to have been lost for a good number of years although the 'front sheet' copy of the file is still held by the National Park Authority and the decision is accurately recorded as being refused.

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Despite this (presumably as a consequence of the file holding the detailed papers being missing) application 4/29/60P was progressed in 1999 on the basis of it being an application to vary 'planning condition of decision NYM4/29/60 to allow static caravan site to open for 11 months of the year'. Whilst a decision notice indicating approval was issued on 23 July 1999, this decision is void as it has no effect - there was no consent /condition in place to vary such that neither 4/29/60 nor 60P are of relevance to the way the site can now be used.

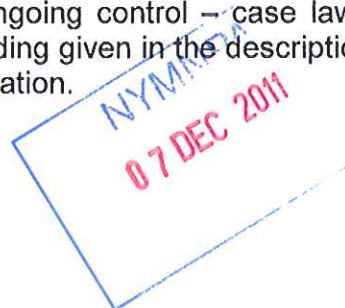
As these two applications have no effect on the way in which the site can operate, it falls to examine what is the extant consent. The critical permission in terms of how the Park can be used is 4/29/60M approved on 25 November 1987. The application site comprised the land parcel the subject of the current submission and was approved for the re-siting of the children's play area and the siting of six additional caravans. Condition 2 of the permission is the only condition to possibly limit the way the site can be used in terms of caravan positions - this only has the potential to have an indirect effect by reason of it seeking restrict the siting of play equipment to one particular part of the park. It doesn't seek to retain the area approved for play equipment for that specific purpose only or to keep it free of caravans in the longer term - it simply endeavours to prevent play equipment being placed elsewhere on the park.

To summarise, application 2/29/60M commenced a new 'planning chapter' for the land. This permission remains the extant consent for the park - the only other application since then which could potentially have imposed different conditions/parameters for the use of the site can have no effect as it related to an endeavour to amend the conditions of a refused application. There are no conditions in place controlling unit numbers or the position of caravans on the site.

Assessment

As outlined, the 1987 consent 4/29/60M does not control overall numbers but simply allows for the site be used as a caravan park and that if play equipment is to be put on the site it should be confined to the area identified on the approved plans. As you will be aware, there is much case law to demonstrate that a caravan park use is just that and changes in the number of caravans does not represent a material change of use. Commentary in the Encyclopaedia of Planning Law and Practice relating to the Act clarifies that, in the absence of specific planning conditions, any additional control rests with the Site Licensing Authority only.

It seems clear that the planning permission in force does not restrict the number of caravans allowed on the park once the development had been implemented. Whilst the description given on the extant decision notice refers to an additional six caravans no condition was imposed to provide ongoing control - case law makes clear that 'intention' as may be drawn from the wording given in the description of the development has no ongoing effect after implementation.



Conclusion

The number and position caravans allowed on the park is not restricted and so the application site can be used for the siting of additional static caravans without the need for any further planning consent.

I would be grateful if you could confirm that the above represents an accurate summary of the planning situation so that the requested Certificate of Lawfulness can be issued. Many thanks.

Please let me know if anything more is needed or if there is any problem in agreeing the view being put forward in these submissions.

Yours faithfully,

Mark Southerton
BA (Hons) MRTPI

NYMNEA
07 DEC 2011