

Our Ref: PPS1300



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Dear Sir/Madam

**Town and Country Planning Act 1990  
Kilvington Lakes, Newark NG13 9PD  
Conditions 019 and 020 of 14/02023/FULM and 17 and 18 of 19/01097/FULM  
(APP/B3030/W/19/3239439)**

I refer to the Urgent Report to Planning Committee - 18 January 2022 in relation to the above application (20/02420/S73M). I note that at present no one, other than a local member and a representative of the parish council can speak about the applications at planning committee. I would be grateful therefore if the following comments could be reported to the committee.

As the Officer's report notes, the Applicant has lodged an appeal with the Planning Inspectorate against the failure of the Local Planning Authority to determine the original application to remove conditions 19 and 20 attached to planning permission 14/02023/FULM and conditions 17 and 18 attached to planning permission 19/01097/FULM within the statutory 8 week period. The Planning Inspectorate has determined that the original application and the appeal was lawfully made.

The Applicant's position remains that a Section 73 application is the correct approach for a proposal of this nature, and that Officer's have misapplied the principles established in *Finney v Welsh Ministers & Ors* [2019] EWCA Civ 1868. The Applicant has demonstrated in the original application and in the Grounds of Appeal that there will be no material change of use arising from the use of the site as a holiday site or as permanent residential occupation, and as such there would be no development as established in Section 55 of the 1990 Act. Since there would be no material change of use arising from the removal of the conditions and there would be no conflict between the proposal and the approved description of the development, therefore the current S73 application is the only lawful process for the present proposal.

In terms of the comments from the Highways Authority, whilst the errors in the trip rates identified are acknowledged, on review, this doesn't fundamentally alter the overall conclusions of the Transport Assessment. The number of units in residential use by over 50s would generate low levels of traffic, and there is no reason to consider that the site access arrangements will not operate within capacity. The Transport Assessment demonstrates that the site is accessible by a range of transport modes.

As far as the need for the development is concerned, the officers report ignores paragraph 79 of the NPPF 2021 which seeks to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This plus the small scale of the parish is ample justification for a ward level study as the ward is largely made up of small settlements of similar

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character. The council is mistaken that the HNS is recording demand. The questionnaire used separates need and demand reasons for moving households (Q's 8A and 8B). Only need factors are put forward in the quantification. The report is also mistaken that the HNS is recording demand. The questionnaire used separates need and demand reasons for moving households (Q's 8A and 8B). Only need factors are put forward in the quantification. Furthermore, the HNS report does not consider the Council's defined sub areas as appropriate. The Farndon and Fernwood ward is included within the Newark sub area which is clearly illogical. However, the Council's report evidences an abundance of older person households in need within the more relevant sub area of Southwell, and a significantly greater quantity of need in the Farndon and Fernwood than suggested by my client's HNS. "Official" surveys commissioned by the council will always attract a larger response than housebuilder commissioned surveys. Nevertheless, 242 responses were received to my clients HNS.

In terms of the Unilateral Undertaking, the Applicant is of the view that the current version with the Council and PINS stratifies the tests as set out in paragraph 57 of the NPPF. The Applicant is however open to reviewing the need for further planning where they satisfy the relevant guidance.

In summary, while the proposed lodges for residential use does not accord with the development plan (Policy DM8) by virtue of its countryside location, by virtue of the 2019 S73 application to allow the use of the lodges all-year round, the impact of use of the lodges for permanent residential accommodation will be negligible. There are presently no restrictions on the length of stay and as noted in the Inspectors report on 19/01097/FULM, there is no reason to prevent someone returning on holiday for periods longer than 6 weeks. It is therefore likely there will be constant activity on and to and from the site throughout the year if the lodges remained in holiday use only, although as retirement lodges, they would not have the same impact on sports/recreation facilities, and would have no impact on local education and young people's services and facilities. The lodges themselves would be the same, so clearly the visual impact of their residential use would be neutral.

In this case, there is a material consideration in the form of providing low cost/affordable housing for over 50s that can be delivered quickly, thus freeing up much needed housing for other groups of people presently struggling in the housing market. This enjoys the support of other policies of the development plan and the NPPF. As such it can be afforded a considerable amount of weight, and in combination with a negligible impact on accessibility to local services and facilities, this outweighs any harm that would be caused by the use of the lodges for residential purposes, and justifies a departure from the development plan in this case.

In view of the above, I would ask the Committee to indicate to PINS that if it had determined the application as submitted it would have approved it..

Yours sincerely,  
for RPS Consulting Services Ltd

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