



Report to Planning Committee 03.10.2024

Assistant Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Jennifer Wallis, Planner

Report Summary			
Application No.	24/01146/S73		
Proposal	Application for removal of condition 04 for the time period for which a person can occupy the pitches for holiday use attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective)		
Location	Robin Hood Retreat Caravan Park, Belle Eau Park, Bilsthorpe, Newark on Trent NG22 8TY		
Applicant	Mr J Kennedy	Agent	Mrs Angela Simmonds
Web Link	<u>24/01146/S73 Application for removal of condition 04 for the time period for which a person can occupy the pitches for holiday use attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective) Robin Hood Retreat Caravan Park Belle Eau Park Bilsthorpe Newark On Trent NG22 8TY (newark-sherwooddc.gov.uk)</u>		
Registered	28.06.2024	Target Date	23.08.2024
		Extension of Time	Requested 11.10.2024
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the Conditions detailed at Section 10.0.		

This application is being referred to the Planning Committee for determination by the local ward member, Councillor Rainbow, on the grounds that:

- The removal of the condition (4) would enable the site to become a permanent residential site which would have an impact on local tourism trade. Tourism is important to us all, it generates, revenue, jobs and in some cases supports

communities. Visitor 'turn-over' is vital for the surrounding area and its attractions.

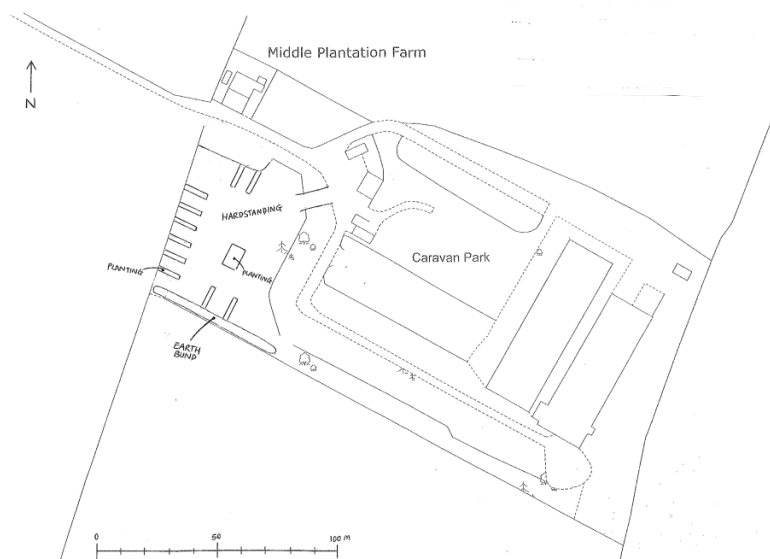
- Environmental concerns regarding the effect a further 15 pitches would have on the current sewage system.

1.0 The Site

- 1.1 The application site occupies an existing caravan touring site, situated in a hill top location within the undulating open countryside, which is accessible via a single width private track off Kirklington Road, which leads through Belle Eau Park industrial estate.
- 1.2 Overall, the wider existing touring site comprises c2.41 ha. Two large agricultural buildings are located to the south east of the site. The centre of the site is in use as a holiday park for 30 holiday caravans and for the storage of caravans. There is a residential dwelling house located to the north-western corner and an amenity building for the caravan site close to the entrance. The site is partly enclosed by an earth bund along the southern boundary of the wider site and the application site.



- 1.3 The red line of the application site includes the access track from Kirklington Road to the caravan site, together with an area of land to the western corner of the caravan park which measures c0.56 hectares, upon which are 15 touring caravan pitches laid out with hardstanding (permitted under 17/00147/FUL).



- 1.4 The site is within the Open Countryside and is designated as being within the Sherwood Forest Regional Park. The site is visible from the main A617 (Kirklington Road) highway due to its elevated position.

2.0 Relevant Planning History

- 2.1. **46911253** – Establishment of a holiday caravan park (25 vans).
- 2.2. **FUL/961279 (96/50813/FUL)** – Replacement office with reception and toilet facilities and use of land for touring caravans and storage of caravans. Application Permitted. (A condition was imposed restricting the siting to 30 holiday caravans).
- 2.3. **10/00261/FUL** - Proposed use of land for the siting of 30 timber cabins (caravans) for tourist use plus reception/site managers accommodation. Refused by LPA but allowed on appeal. This proposal was in lieu of the caravan use, not in addition to it, but the permission was never implemented, and it has now expired. The permission authorised the use of the area to the south of the site, which is currently being used for caravan storage, for this use. There was no restriction placed on the numbers of caravans that may be stored. A condition was imposed that required details of a landscaping scheme. The scheme was required to be retained for a period of four years. There is no details on the file as to whether a scheme was submitted. Regardless, the period for retaining any such scheme would now have expired.
- 2.4. **16/00180/ENF** – A complaint was received regarding the provision of additional caravan pitches at the site and was duly investigated. The applicant was advised that the only way in which the proposal may be acceptable would be to apply for permission so that appropriate mitigation and controls could be secured on the site in the event that permission was forthcoming. No such application was submitted and therefore the visual harm identified could not be secured. Officers therefore had no choice but to issue a planning enforcement notice in September 2016 alleging to following breach(s);
- A. Without planning permission, development consisting of works to alter the level of land shown hatched on the attached plan

- B. Without planning permission, development consisting of the material change of use of land shown hatched on the attached plan to use for the stationing and positioning of caravans.
- C. Without planning permission, development consisting of works to create an earth bund along the South boundary of the land shown edged blue on the attached plan (the annotated plan shows the general position of the earth bund and may not be the exact line as it may be subject to distortions in scale).

The enforcement notice was subsequently appealed, however prior to a decision being issued, the enforcement notice was therefore withdrawn pending the outcome of planning application 17/00147/FUL.

- 2.5 **17/00147/FUL** - Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective). Application Permitted on 07.07.2017, subject to conditions, including the following condition 04:-

'The pitches hereby permitted for use of holiday use shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year unless otherwise agreed in writing by the Local Planning Authority.'

Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.'

- 2.6 **17/01451/FUL** - Application for removal/variation of condition 4 attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use. Application Refused on 08.06.2018, for the following reason:-

'Condition 4 attached to planning permission 17/00147/FUL prevents the occupation of the 15 pitches by the same person or persons for a total period exceeding 28 days in any calendar year. The Local Planning Authority considers this restriction is necessary to retain adequate control over the length of occupation of these pitches to allow them to be available for more transitory purposes (holiday use), in contrast to the existing 30 pitches, and to ensure that they are not occupied for permanent residential purposes in a location where new residential development would not normally be permitted. The Local Planning Authority considers that the imposition of existing Conditions 5 and 6 attached to planning permission 17/00147/FUL alone, would not allow for a touring, more transient use with increased comings and goings to and from these pitches and would not provide the same necessary level of control to prevent more permanent occupancy.'

The proposal is thereby contrary to Spatial Policy 3 of the Newark and Sherwood Core Strategy and Policy DM8 of the Allocations and Development Management DPD, as well as paragraph 55 of the National Planning Policy Framework, which is a material planning consideration.'

A planning appeal (APP/B3030/W/18/3215568) against the refusal of the application

was subsequently submitted and dismissed on the following grounds:-

'The appellant considers that conditions 5 and 6 are sufficient to control occupancy and No 4 therefore is unnecessary. Whilst conditions 5 and 6 also restrict the residential occupancy of the pitches, they do not restrict the length of time when the pitches can be occupied. I can appreciate the Council's concern that general residential development would raise issues including the rural location, given the Council's policies referred to above and the aims of the Framework in terms of the countryside; and access via a long narrow track. I note the appellant's comments about the changing nature of caravanning and the role that seasonal bookings plays in this. However, there is nothing before me that convinces me that the condition need be especially onerous or prevent the operation of the caravan park. I have considered all other matters raised but none alter my conclusion. I conclude that condition 4 on the original permission is not changed, and the occupancy of the 15 pitches permitted shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year, unless otherwise agreed in writing by the Local Planning Authority.'

- 2.7 **17/01450/DISCON** - Request for confirmation of discharge of conditions 1 (details of soft landscape works) and 7 (methodology for the investigation of potential contamination) attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use. All conditions discharged 01.11.2017.

3.0 The Proposal

- 3.1 The application is a Section 73 application which seeks to remove condition 04 attached to planning permission 17/00147/FUL, to remove the 28 days in any calendar year maximum occupancy of the 15 touring caravan pitches.
- 3.2 The Applicant seeks to remove this condition to allow greater flexibility for holiday users visiting the site. The supporting statement submitted with the application states:-

'This 28-day restriction is considered to be overly restrictive in nature and does not take into account the recent trends and personal preferences in holidaying. Since the onset of Covid, peoples working practices are far more flexible and with the improvements in caravan and lodge design, all year-round holidaying is far more popular and more modern planning conditions reflect this. Also, for those who have semi or fully retired, their use of a caravan or lodge may extend over the whole season even though their main residence is elsewhere in the Country. Conditions which specifically require the evidence of a permanent alternative address with a detailed record kept of those staying on the site, along with the rules and regulations of the site licence, are now generally accepted as sufficient controls to preserve the tourist element and therefore prevent full time residential. It is becoming evident that seasonal occupancy period conditions are being removed in their entirety to be replaced by a holiday occupancy condition.'

- 3.3 The Applicant states that Conditions 05 and 06 which were attached to 17/00147/FUL, and which they are not seeking to remove or vary, are sufficient to prevent the 15 touring pitches from being used for permanent residential occupation. These conditions read as follows;-

Condition 05

'The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority, at any time, and a copy of the register shall be supplied to the local planning authority at the end of each calendar year unless otherwise agreed in writing by the local planning authority.'

Reason: To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.'

Condition 06

'The development hereby approved does not allow for any pitch or any caravan to be occupied for residential purposes at any time.'

Reason: For the avoidance of doubt.'

- 3.4 Documents assessed in this appraisal:

- Application Form dated 24.06.2024
- Planning Statement dated June 2024

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 19 properties have been individually notified by letter.

- 4.2 Site visit undertaken on 30.07.2024.

5.0 Planning Policy Framework

5.1. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 1 – Settlement Hierarchy
 Spatial Policy 2 – Spatial Distribution of Growth
 Spatial Policy 3 – Rural Areas
 Spatial Policy 7 – Sustainable Transport
 Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
 Core Policy 7 – Tourism Development
 Core Policy 9 – Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 13 – Landscape Character
 ShAP1 – Sherwood Area and Sherwood Forest Regional Park

5.2. Allocations & Development Management DPD (2013)

DM5 – Design

DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM12 – Presumption in Favour of Sustainable Development

- 5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

- 5.4. **Other Material Planning Considerations**
 National Planning Policy Framework 2023
 Planning Practice Guidance (online resource)
 Landscape Character Assessment SPD 2013

6.0 **Consultations and Representations**

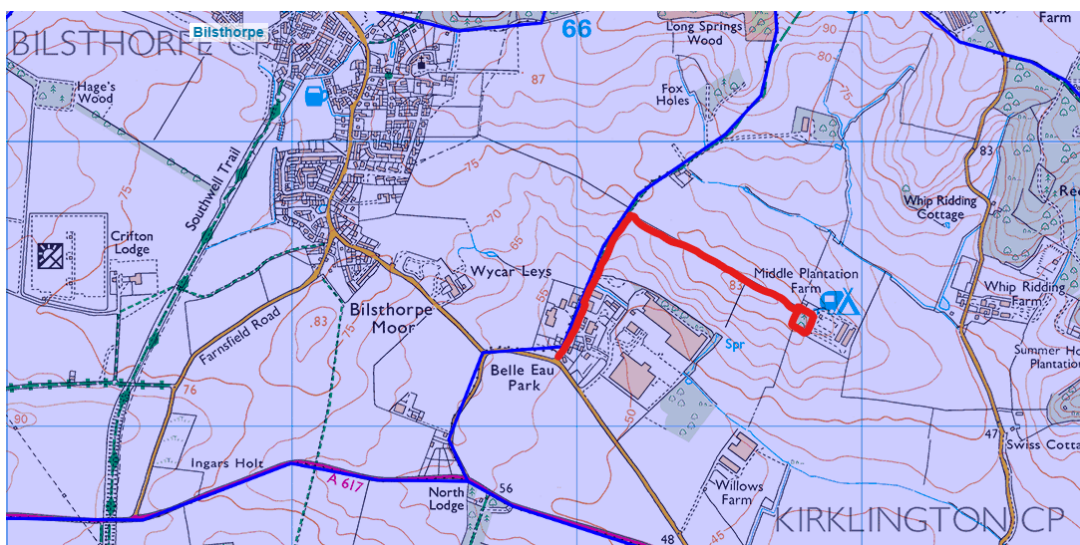
Please Note: Comments below are provided in summary - for comments in full please see the online planning file.

Statutory Consultations

- 6.1. None.

Town/Parish Council

- 6.2. The application site is located within the Parish of Kirklington, however the access to the site off Kirklington Road, is parallel with the boundary of Bilsthorpe Parish.



- 6.3. **Bilsthorpe Parish Council – No response received**
- 6.4. **Kirklington Parish Council – Object, on the following grounds:-**

- as a small Parish, Kirklington is sensitive to incremental increases within its boundary - permission to build residences should, quite rightly, be subject to control and this should be the case whether for temporary or permanent use.
- as the site is intended for use for holidays, it is sensible that a time limit for stays is set in order to be able to define it as 'not being permanent' - there needs to be a time bound limit to prevent them being for permanent residence.
- it is felt that the current time limit is sufficient and that changes do not need to be made / the clause does not need to be removed.
- Feedback given to the Parish Council suggests that there may be wider issues where other conditions have not / are not being met. As this is not within the Parish Council's responsibility / remit to review, it was suggested that NSDC's Enforcement Team be contacted directly to raise concerns. The Parish Council is aware that site visits can be made as deemed necessary.

Representations/Non-Statutory Consultation

- 6.5. NSDC Environmental Health Officer – No objections. The subject caravan site is currently licensed by NSDC under the terms of the Caravan Sites and Control of Development Act 1960. The proposed alterations to the occupancy period will have no impact on the site licence as, if approved, the site will remain for holiday use as per the existing licence. As such I have no objections to the application.
- 6.6. Comments have been received from any third party/local resident/Comments have been received from 2 third parties/local residents that can be summarised as follows:
- Condition 4 has never been adhered to, as people reside at the caravan site.
 - The 2010 appeal was subject to a condition requiring a landscaping scheme being submitted to the LPA for approval, which has not been adhered to.
 - The earth bund provides no screening from the main road. The applicant has not mitigates the impact on the development upon the skyline or surrounding natural landscape.
 - The relaxation of condition would lead to further breaches.
 - The removal of the condition would result in extra traffic, noise and litter.
 - Flooding of neighbouring farming land with sewerage from the site, which could be exacerbated with longer term occupancy.
 - There was a previous condition requiring dog proof fencing, which has been buried beneath earth allowing dogs and children to roam freely. This could be a greater problem with long term residency.

7.0 Comments of the Business Manager – Planning Development / Appraisal

7.1. The key issues are:

- Principle of development
- Impact Landscape Character and Visual Amenity
- Impact upon Residential Amenity
- Impact upon Highway Safety
- Impact on Ecology and Bio-Diversity

7.2. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.

Principle of Development

7.3. An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission, and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

7.4. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

(a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and

(b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

7.5. The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. Whilst the application has defined which conditions are sought to be varied, the local authority has the power to vary or remove other conditions if they are minded to grant a new planning consent.

- 7.6. In this case, full planning permission was granted in July 2017 under 17/00147/FUL for the “Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective).” The permission was granted subject to seven conditions. The condition seeking to be removed here is Condition 04, in order to remove the ‘28 day in any calendar year’ occupancy limitation. No operational development is proposed.
- 7.7. The supporting statement puts forward that the current condition is overly restrictive in nature and does not take into account the recent trends and personal preferences in holidaying. The statement goes on to state that since the onset of Covid, peoples working practices are more flexible and with the improvements in caravan and lodge design, all year-round holidaying is far more popular, and as such, modern planning conditions should reflect this. The Applicant proposes that the retention of conditions 5 and 6, which require the owners/operators of the site to maintain an up-to-date register of the names of all owners/occupiers of individual caravans on site at any time, and prevent the caravan pitches from being occupied for residential purposes at any time, would be sufficient to prevent permanent residential occupation of the 15 touring pitches.
- 7.8. The supporting statement advances that seasonal occupancy conditions are being removed in their entirety to be replaced by a holiday occupancy condition, and there are a large number of planning appeal decisions, since the previous application to remove condition 04 on this site was refused, where this is the case. The most relevant to this case quoted is the appeal decision relates to a site within the District at Kilvington Lakes, Vale of Belvoir, Newark (APP/B3030/W/19/3239439) which was allowed on 23 January 2020.
- 7.9. The condition in dispute in that appeal was Condition 21 which stated: *“The properties hereby permitted for use as a holiday accommodation shall not be occupied by the same person or persons for a total period exceeding 6 weeks in any calendar year”*. The reason given for the condition was: *“To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.”* In this case the condition in dispute prevents occupation by the same person for a total period not exceeding 28 days in any calendar year. I am therefore of the view that there are direct comparisons between the two cases.
- 7.10. In the Kilvington Lakes appeal decision, The Inspector stated the following:-
- ‘5. Paragraph 55 of the Framework requires conditions to be kept to a minimum and only imposed where they pass the required tests, including being reasonable and necessary. The Council’s reason for the imposition of condition 21 is deemed to prevent a residential use, in a location which would be unsuitable for such a use, in combination with conditions 19 and 20. Planning Practice Guidance (the Guidance) identifies that planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission.*
- 6. Policy DM8 of the Newark & Sherwood Allocations & Development Management Development Plan Document (2013) relates to development in the open countryside. This policy only allows new dwellings that are of exceptional design or are for*

agricultural workers. Furthermore, the policy identifies that tourist accommodation will be supported where it is necessary to meet identified needs and can support local employment, community services and infrastructure. The principle of development was agreed based on the tourism and employment benefits of the proposal. It was also noted that the scheme would deliver wider community benefits through access to the café, the lakes and associated water-sports and facilities. These also weighed in favour of the development. Accordingly, it is reasonable that conditions be imposed that prevent permanent residential use and ensure that the facility would contribute towards the Council's tourism objectives.

7. However, the Council has not identified a policy requirement to limit the tenancy of holiday lets. There is no compelling reason to require such a measure in this case. Furthermore, there is no compelling evidence that the development would lead to the creation of permanent residential use without condition 21. Moreover, conditions 19 and 20 ensure that the holiday accommodation would be maintained in that use. This would prevent the site becoming available for permanent residential use. Consequently, by maintaining a list of registered occupiers an observer can easily identify any units with no occupant turnover. Without the restriction of condition 21 an occupant could remain on site for a prolonged period. However, this would be clearly evident on the register of occupants and would show a lack of adherence to the terms of the approval.

8. Also, the Guidance states that conditions should not impose broad unnecessary controls. The Council's objective is to prevent the site becoming a location for permanent residential use. Nevertheless, the application specifically relates to holiday accommodation and there is therefore no question that they could be used as permanent homes within the limits of the permission. It would also be clear from associated attendant behaviour, and the lifestyle of occupants, as to whether the units were being used exclusively for permanent occupation. The associated behaviour, and retained conditions, would therefore enable contravention to be identified. It would therefore be possible to ensure that unauthorised use as a dwelling does not become established. Furthermore, insufficient justification has been submitted to explain why 6 weeks is an essential maximum period of stay and there is no planning reason to prevent someone returning on holiday for longer periods.

9. The removal of the condition would not change the nature of the development, as originally assessed, as it would remain limited to the exclusive use of holiday accommodation. Consequently, it is necessary to prevent the permanent residential use and therefore conditions 19 and 20 are reasonable and necessary. However, in contrast, Condition 21 is unnecessary and would place an unreasonable burden on the operational use of the site as holiday accommodation. Accordingly, the retention of conditions 19 and 20 would be sufficient to enable the development to continue to meet the relevant objective of policy DM8.'

- 7.11. The concerns of the Parish Council and local residents regarding the occupancy of the caravan park are noted, however the site is not intended for permanent residential use. The current condition 04 only permits individuals to occupy the site for a maximum of 28 days in any calendar year. How the 28 days is spread across the year is not controlled. For example, occupiers could either stay for one 28 day visit, or four

week long visits, or fourteen weekend visits only. The proposal is not an expansion of an existing facility, but seeks to provide more flexibility to the occupancy condition to allow holiday makers to use the site year-round for holiday purposes with no limit on the maximum number of days they can be on site.

- 7.12. In principle, year-round holiday use for caravan/tourism sites is not uncommon – there are other holiday accommodation sites within the District, and across the country, which rely upon conditions similar to the two conditions (05 and 06) which would remain. The site is located within the Open Countryside - Spatial Policy 3 states that development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting (as set out in DM8) such as tourist accommodation (point 12). This part of DM8 states that tourist accommodation will be supported subject to a number of criteria and a site-specific assessment of the potential impact. Chapter 6 of NPPF also recognises the need to support economic growth in rural areas with para. 84 advising that there should be support for sustainable rural tourism developments which respect the character of the countryside. In this case the site is an established caravan site for tourism purposes and thus the principle of holiday use is not in dispute.
- 7.13. Whilst the concerns raised by the Parish Council and local residents are noted, it is considered that the proposal to removed condition 04 to allow year-round holiday occupancy (subject to conditions 05 and 06 remaining in place to prevent permanent residential occupation) would not be unreasonable. The application site is an established tourist accommodation site that contributes to local employment (albeit on a small scale) and the rural economy. By allowing the removal of this condition to give more flexibility on the length and frequency of tourist visits would support the continued operation of an existing tourism facility.
- 7.14. The concerns of the Parish Council and local residents are noted and have been duly taken on board throughout this assessment. It is noted that one of their main concerns relates to the potential for the site to be used for permanent residential occupation and the inability for the Council to control this. Whilst it is accepted that the isolated and set back nature of the site from the highway makes passive surveillance difficult, a condition (05) shall remain in place, which requires the owner to maintain a register of occupiers for each calendar year, which is made available for inspection by the local planning authority at any time, and a copy of which is supplied to the local planning authority at the end of each year.
- 7.15. It is also noted that the site currently operates under a licence issued by NSDC under the terms of the Caravan Sites and Control of Development Act 1960, and if this application is successful, the site will continue to remain for holiday use as per the existing licence.
- 7.16. Overall, in considering the requirements of DM8 it is considered that the proposed removal of condition 04 to allow year-round holiday occupancy and give more flexibility on the length and frequency of tourist visits would support the continued operation of an existing tourism facility, together with other leisure and tourist attractions in the District. It is therefore considered that the removal of the condition

would accord with Core Policy 7 of the Core Strategy and Policy DM8 of the DPD and is therefore acceptable in principle.

Impact on the Open Countryside and the Visual Amenities of the Area

- 7.17. Core Policy 9 and Policy DM5 of the DPD require new development to achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing built and landscape environments. The NPPF states that good design is a key aspect of sustainable development.
- 7.18. No physical changes are proposed as a result of the variation to the occupancy condition. Concerns have been raised by local residents with regards the visual intrusion of the site into the open countryside and the lack of landscape screening around the site.
- 7.19. The provision of a soft landscaping scheme on the site was required by condition 01 of 17/00147/FUL, a scheme for which was submitted to and approved in writing by the Local Planning Authority on 01.11.2017. The approved soft landscaping scheme comprised of additional planting on the western and southern boundaries, planted divides between caravan pitches, picnic area and an earth bund.
- 7.20. Condition 02 of 17/00147/FUL related to the timescale for implementing the approved soft landscaping scheme, and was worded as follows;-

'The approved soft landscaping shall be completed during the first planting season following the approval of details, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. Any hard landscaping shall be carried out to an agreed timescale.'

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.'

- 7.21. Condition 02 required the soft landscaping scheme to be planted in the first planting season following the approval of details. The planting appears to have been implemented on site in accordance with the approved plan.
- 7.22. The soft landscaping details were approved on 1st November 2017. The planting season in the UK normally runs from November to March. Even if it were argued that the first new planting season, following the approval of the soft landscaping details, was between November 2018 and March 2019, five years from the end of the planting season would be March 2024. As a result, the five year timeframe within which to require any plants which have died, been removed or have become seriously damaged or diseased, to be replaced with others of similar size and species, has past, and is therefore beyond the enforcement period.

- 7.23. The area of the caravan site, to which this application relates, is bounded by established hedgerows, which screen the touring caravans from the wider area, and as a result they do not result in any significant visual intrusion from the surrounding open countryside, the proposed removal of condition 04 would not result in any physical changes to the site, or any further intrusion into the open countryside, over and above that which currently exists.



Aerial view of the site taken from Google Maps

- 7.24. Overall, it is not considered that the variation proposed would result in any landscape character of visual harm, thus the proposal is considered to accord with the aims of Policies DM5 and DM6 of the NSDC DPD and CP13 of the Core Strategy in this regard.

Impact upon Residential Amenity

- 7.25. Policy DM5 of the ADMDPD states planning permission will be granted for development provided it would not adversely affect the amenities of the adjoining occupiers, in terms of loss of privacy, loss of light or over-bearing impacts.
- 7.26. No physical changes are proposed as part of this application, which only seeks to remove the restriction which prevents the pitches from being occupied by the same person or persons for a total period exceeding 28 days in any calendar year. As set out previously, it is not considered that the amendment sought would be substantially different to how the site could lawfully operate at present. There would be no discernible increase in traffic, noise or litter, the caravan pitches could, under the current application, be occupied for 12 months of the year by different visitors, the removal of condition 04 allowing visitors to stay for more than 28 days in any one calendar year, would not in theory increase the occupancy of the site, but could potentially reduce the frequency of 'change overs' and therefore reduce the associated noise and disturbance associated with traffic movements to and from the site.

- 7.27. It is therefore not considered that any amenity impacts would arise from this change and therefore the proposal is considered to comply with Policy DM5 of the DPD in this regard.

Impact upon Highway Safety

- 7.28. Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals that place an emphasis on non-car modes as a means of access to services and facilities.
- 7.29. No physical changes are proposed as part of this application which only seeks to remove the restriction which prevents the pitches from being occupied by the same person or persons for a total period exceeding 28 days in any calendar year. As set out previously, it is not considered that the amendment sought would be substantially different to how the site could lawfully operate at present. The caravan pitches could, under the current application, be occupied for 12 months of the year by different visitors, the removal of condition 04 allowing visitors to stay for more than 28 days in any one calendar year, would not in theory increase the occupancy of the site, but could potentially reduce the frequency of 'change overs' and therefore reduce the number of traffic movements to and from the site.
- 7.30. It is not considered therefore that any highways safety impacts would arise from this change, as such the proposal is considered to comply with Policy DM5 and SP7 in this regard.

Impact upon Ecology and Bio-Diversity

- 7.31. Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM7 of the DPD seeks to protect, promote and enhance green infrastructure. Paragraph 118 of the NPPF includes that opportunities to incorporate biodiversity in and around developments should be encouraged.
- 7.32. The application site, which includes the access road and 15 touring caravan pitches, is largely hard surfaced, within some areas laid to lawn, surrounded by boundary hedging. No physical changes are proposed as part of this application, which only seeks to remove the restriction which prevents the pitches from being occupied by the same person or persons for a total period exceeding 28 days in any calendar year.
- 7.33. For these reasons, the removal of the occupancy condition would not result in any harm to protected species of their habitat, and the proposal would accord with the policy aims and objectives of CP12 and DM7 and the provisions of the NPPF.
- 7.34. Biodiversity Net Gain (BNG) is a way of creating and improving natural habitats. BNG makes sure development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) for major developments from 12 February 2024 (developments over 1Ha in area) and for 'minor sites' on 2 April 2024. This application was received after 2 April 2024 and, therefore, must be

considered under the statutory framework for biodiversity net gain. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some exemptions to where BNG is applicable – these are set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024 (legislation.gov.uk).

- 7.35. One exception is the ‘de minimis’ exemption that sets out that BNG does not apply where the development would not impact an onsite priority habitat and impacts less than 25 square metres (5m by 5m) of non-priority on-site habitat (such as modified grassland) or 5 metres of non-priority on-site linear habitats such as hedgerows. This exemption is designed to ensure that BNG does not apply to either very small-scale development or development which does not impact habitat, through loss or degradation within the red line boundary.
- 7.36. In accordance with the requirements of the legislation, I am of the view that the proposal to remove a condition relating to the occupancy of a caravan touring park is subject to the ‘de minimis’ exemption, as it involves land which is already hard surfaced and there are no physical alterations to the site proposed.

Other Matters

- 7.37. A local resident has raised concerns relating to the disposal of foul drainage. The proposal to removal condition 04 relating to the maximum number of days in any one calendar year that visitors can occupy the site, would not, in theory, increase the levels of foul drainage from the site. There would be no increase in the number of touring pitches on the site, which could be occupied all year now by different visitors.
- 7.38. With regards to this application leading to future breaches of planning consent, the intentions of the Applicant must be taken on good faith and without any prejudice that they intend to operate the site in any other manner than that described in the application. Any reports that the site is being operated in breach of conditions, would be investigated by the Council’s Enforcement Team.

Assessment of Remaining Conditions

- 7.39. The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.
- 7.40. For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with strikethrough text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have also been amended/deleted accordingly in line with a previous application to discharge conditions at the site.

8.0 Implications

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity,

Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

9.0 Conclusion

9.1. Overall, it is considered that the proposed removal of condition 04, to allow year-round holiday occupancy and give more flexibility on the length and frequency of tourist visits, would support the continued operation of an existing tourism facility, together with other leisure and tourist attractions in the District. The permanent residential occupation of the touring caravan site would still be prevented by the retention of conditions 05 and 06. It has also been concluded that the removal of condition 04 would not unduly impact upon the character or visual amenity of the area, the amenity of any neighbouring land users, the safety of the highway network or result in any unacceptable drainage impacts. As such there is not considered to be any justification to resist the proposed amendment and thus it is recommended that planning permission is granted subject to the conditions outlined below.

10.0 Conditions

01

~~Within 3 months of the date of this permission (or an alternative agreed timescale to be agreed in writing with the local planning authority) full details of soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:~~

- ~~• a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;~~
- ~~• existing trees and hedgerows, which are to be retained pending approval of a detailed scheme~~

~~Reason: In the interests of visual amenity and biodiversity.~~

(Condition discharged under 17/01450/DISCON)

02

~~The approved soft landscaping shall be completed during the first planting season following the approval of details, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. Any hard landscaping shall be carried out to an agreed timescale.~~

~~Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.~~

(Condition outside the timescales for enforcement)

~~03~~ 01

Within the application site (as identified by the Site Location Plan referenced RHR-LP) there shall be no more than 15 pitches provided and these shall be laid out in accordance with the approved Block Plan, plan reference RHR-BP.

Reason: For the avoidance of doubt and in the interests of sustainability and amenity.

04

~~The pitches hereby permitted for use of holiday use shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year unless otherwise agreed in writing by the Local Planning Authority.~~

~~Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.~~

~~05~~ 02

The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority, at any time, and a copy of the register shall be supplied to the local planning authority at the end of each calendar year unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.

~~06~~ 03

The development hereby approved does not allow for any pitch or any caravan to be occupied for residential purposes at any time.

Reason: For the avoidance of doubt.

07

~~Within 21 days of the date of this permission, a methodology for the investigation of any potential contamination of the application site, including establishing nature and extent of contamination, shall be submitted to and approved in writing by the Local Planning Authority. Within 28 days of the methodology being approved in writing the investigation shall be carried out in full accordance with the approved methodology and a report submitted to the Local Planning Authority with the results of the investigation. If any contamination is found during the site investigation, the site shall cease to be occupied within 1 day of this being reported and a further report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated fully in accordance with~~

~~the approved measures which shall then be confirmed as satisfactorily completed in writing by the Local Planning Authority before any further occupation of the application site.~~

~~Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the site can be occupied safely without unacceptable risks.~~

(Condition discharged under 17/01450/DISCON)

Informatives

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/ The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

03

From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition "the biodiversity gain condition" that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan;

OR

- c) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).

There are statutory exemptions and transitional arrangements which mean that the

biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain (Biodiversity net gain - GOV.UK (<http://www.gov.uk>)]www.gov.uk)

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply - The proposal falls under the 'de minimums' exemption as it is for the removal of a condition relating to occupancy, which will have no impact on BNG.

BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 24/01146/S73

