



Appeal Decision

Site visit made on 18 December 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2024

Appeal Ref: APP/G2435/W/23/3320501

Swan Lake Lodges, Spring Lane, Swannington, Leicestershire LE67 8QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr George Finney against the decision of North West Leicestershire District Council.
 - The application Ref 22/01935/VCU, dated 19 December 2022, was refused by notice dated 3 March 2023.
 - The application sought planning permission for a Hybrid planning application for development of the site comprising: full application for the change of use of land for use as a caravan site as defined by S336 of the Town and Country Planning Act, together with associated works. Outline application for the erection of associated restaurant/bar/shop and office (access only) at Land At Spring Lane Swannington, Leicestershire without complying with a condition attached to planning permission Ref 19/01961/FULM, dated 1 June 2022.
 - The condition in dispute is No 33 which states that: *"The caravans hereby approved shall be used solely for the purposes of holiday accommodation and not for permanent residential accommodation, as a person's sole or main residence or for any other purposes whatsoever, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority. No person shall occupy any of the caravans hereby permitted in the Calendar month of January in any calendar year. In addition, no person shall occupy the accommodation for a period greater than 28 days in a single stay and shall not return to occupy the holiday accommodation within four weeks of the date of their departure. An occupancy list (both in paper and electronic format) shall be maintained by the operator, which will contain full name, address and contact details of the residents occupying the holiday accommodation. This will be available for inspection by the Local Planning Authority on demand."*
 - The reason given for the condition is: *"Use or conversion of the individual caravans to independent dwellings may be unacceptable in principle and in terms of residential amenity, drainage, ecology and highway safety"*.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was given in 2022 for the change of use of the appeal site to a caravan site and outline permission for a restaurant/bar/shop and office (access only). Condition 33 of that approval prevents an occupant from staying in a holiday unit in January in any calendar year; to not stay longer than 28

days at a time; and to not return within 4 weeks. The Council states this is to ensure that the approved development is a benefit to tourism, where the principle may be unsuitable and in preventing permanent residential use would avoid potential adverse effects on residential amenity, drainage, ecology and highway safety. The Appellant finds the condition to be restrictive and onerous due to the imposition of the period of stay limitations.

3. The Appellant seeks to amend the condition to the following:

i. the caravans (or cabins/chalets) are occupied for holiday purposes only;

ii. the caravans (or cabins/chalets) shall not be occupied as a person's sole, or main place of residence;

iii. the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/log cabins/chalets on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

4. The main issue is whether condition 33 is reasonable and necessary having regard to local policies and the National Planning Policy Framework (The Framework) and whether an amended version would equally serve the desired purpose.

Reasons

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 33 seeks to prevent a permanent residential use, in a location which would be unsuitable for such a use. The Government's Planning Practice Guidance identifies that planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission¹.
6. Policy S3 of the North West Leicestershire Local Plan [2021] (LP) relates to development in the open countryside. This policy seeks to restrict development outside of the Development Limits of settlements and only allows for a closed list of development. This includes support, at S3(n) for development that would be for recreation and tourism.
7. Furthermore, policy H2 of the Swannington Neighbourhood Plan [2023] (NP) seeks to carefully control development within the open countryside. The site is outside the settlement boundary of Swannington as defined by figure 3 of the NP. The principle of the approved development was agreed based on its delivery of a recreational facility for tourists. It is apparent that a permanent residential use would conflict with policy H2. Accordingly, it is reasonable that a condition be imposed that would prevent permanent residential use and ensure that the facility would contribute towards the Council's tourism objectives.
8. The Appellant indicates that the site would be used for holiday accommodation and not for permanent residential accommodation, as a person's sole or main residence. However, the suggested alternative wording would not preclude an occupier staying on site for an extended period of time and to use it as a

¹ Planning Policy Guidance: 001 Reference ID: 21a-001-20140306

second home. The activity associated with prolonged stays would be markedly different to those of a tourist. Such occupiers would be less likely to visit local tourist attractions, and more likely to do so with less frequency, spending less when compared to the behaviour of a visiting holiday maker.

9. The Appellant states that it is their intension to operate the site on an 'owner occupier' basis with subletting only permitted to caravan owners' close family and friends. Further, the Appellant states that the site owners would implement "robust measures" to ensure the caravans would not be occupied for any unwanted residential accommodation. However, this business model does not demonstrate that the site would have a high turnover or deliver a significant number of new tourists into the area. It would be likely to be sedentary and dormitory in character, providing limited wider benefits to the local economy. Also, any measures applied by the owner could be ineffective at preventing long occupancy and could change over time as these would lack the oversight of the Council. Condition 33 is restrictive, by its nature, but would ensure that the caravans have a frequent turnover, which would be required for the site to properly function as a tourist facility and maximise the potential for tourism in the district.
10. To remove the frequency and length of stay provisions, there would be no clear or defined limit on how long occupiers could stay within the caravans. As such, a caravan owner could stay on site for most of the year, without breaching the condition by simply demonstrating to the site owner that they have a main address elsewhere. This would be an unsatisfactory single method to demonstrate a reasonable turnover of occupiers of the caravans.
11. As a result, with the type of use described by the Appellant and revised wording of condition 33, the use would not constitute holiday accommodation and would function more as a second home. The revised condition would not encourage visitors to attend the site on holiday and would not prevent occupation by permanent households which could place demands on local services that would not normally arise from visitors. As such, I am unconvinced that the amended condition would realistically support the local tourism economy or prevent a largely permanent form of residential accommodation being provided.
12. I have also given careful consideration to the appeal decisions submitted by both parties. Inspectors have taken different approaches depending on the specific circumstances of the cases presented. I do not have sufficient detail on these to find them directly comparable. However, they illustrate that locational circumstances can have a bearing on the need and range of occupational conditions. In this case, the proposal relates to a site in a secluded location where long-term residential stays could be attractive to the market. Given the location of the site, and the relatively limited facilities offered to holiday makers on site, it would be more likely that long stays, tantamount to a permanent residential use, would be attractive to occupiers. This reaffirms my finding that an amended version of condition 33 would encourage long stays and conflict with the purpose of the site in offering tourist accommodation.
13. The Appellant's proposed conditions were proffered by the Good Practice Guide on Planning for Tourism [2006] (withdrawn in 2014) as model conditions and have been used in allowed appeals. However, I am unconvinced it would be suitable in this case, the suggested revised condition could alter the nature of

the development with the approved caravan site no longer remaining limited to the exclusive use of holiday accommodation. Consequently, it is necessary to prevent a permanent residential use of the accommodation as has been secured by the use of the applied condition. Accordingly, the retention of condition 33 would enable the development to deliver a tourist related use in compliance with LP policies S2 and S3 and NP policy H2. The applied condition therefore remains necessary and reasonable.

Conclusion

14. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR