

NORTH WALSHAM - PF/19/2003 - Proposal to Remove Condition 2 [Requirement to use each caravan and chalet as holiday accommodation only, and not as the sole or main place of residence for its occupiers] of Planning Permission PF/04/1449 (Use of chalet and caravan park with ability to occupy caravans all year round for holiday purposes), to allow caravans to be used as both 12 month holiday accommodation or residential use, including as a main or sole residence; Alder Country Park, Bacton Road, North Walsham for Exclusive Luxury Lodges Ltd

Major Development

- Target Date: 23 March 2020 (Agreed extension of time 10 April 2020)

Case Officer: Phillip Rowson

Full Planning Permission

CONSTRAINTS

EA Risk of Flooding from Surface Water 1 in 1000

LDF - Tourism Asset Zone; Residential Area; Countryside

SFRA - Areas Susceptible to Groundwater Flooding

EA Risk of Flooding from Surface Water 1 in 100 & 1 in 30

SFRA - Risk of Flooding from Surface Water + CC

Landscape Character Area

MOD Safeguarding height Restriction

Mineral Safeguard Area

Advertising Control

Section 106 Planning Obligations

Tree Preservation Order

RELEVANT RECENT PLANNING HISTORY for "Alder Country Park" formerly known as North Walsham Chalet & Caravan Park, Bacton Road, North Walsham

PLA/20041449 PF

North Walsham Caravan & Chalet Park, Bacton Road, North Walsham

VARIATION OF CONDITIONS ON PLANNING PERMISSIONS REFERENCES 19780066, 19781838, 19830190, 19950895, 19961192 AND 20011095 TO ALLOW ALL YEAR ROUND OCCUPANCY OF CARAVANS FOR HOLIDAY PURPOSES

Approved 24/09/2004

PF/19/2003 PF

Alder Country Park, Bacton Road, North Walsham

Proposal to Remove Condition 2 [Requirement to use each caravan and chalet as holiday accommodation only, and not as the sole or main place of residence for its occupiers] of Planning Permission PF/04/1449 (Use of chalet and caravan park with ability to occupy caravans all year round for holiday purposes), to allow caravans to be used as both 12-month holiday accommodation or residential use, including as a main or sole residence

Current application undetermined

THE APPLICATION

The application site is accessed by Bacton Road and sits on the North Eastern periphery of North Walsham. The site abuts the identified settlement edge being immediately adjacent to Bluebell Road and Marsh Gate, but is otherwise located within an area of open countryside.

The proposals seek to vary 12-month conditional control for holiday accommodation over the planning application site area. The conditional control requires that any occupiers must have

their main or sole residence elsewhere, in effect not permitting full time residential use to be exercised on site. The application is supported by a Flood Risk & Foul Sewage Report, Transport Statement, Waste Management Strategy, Counsel Opinion and Covering letter. Subsequently to submitting the application the applicants have proposed amendments which will not permit residential occupancy within an identified flood risk area and also to restrict any residential occupancies on site to being for those over 50 years old.

It is noted immediately to the South East of the application site is a further area of the "Alder Country Park" with approximately 20 chalets site upon it. That area is also subject to similar restrictions. This area is under the same ownership as the application site, but will be considered by the applicants once this current application has been determined. As such we must determine each case on its own merit.

REASONS FOR REFERRAL TO COMMITTEE

The proposals for part residential use of the site are located in a countryside area within the adopted local plan. As such residential use within such an area is a departure from adopted plan policies SS1 & SS2. That departure is considered to potentially be of more than local significance and is reported to committee under the recommendation of the Head of Planning.

PARISH/TOWN COUNCIL

North Walsham Town Council – Initial comment "*North Walsham Town Council have no objection to this planning application but would like a condition included, if possible, that the site is a maximum 50/50 split between permanent homes and holiday lets.*"

Amended plan comment – No objections to this planning application.

REPRESENTATIONS

Twenty-Six letters of support have been received noting amongst other the comments:

- Alleviating the stress and uncertainty for those outstanding numbers of residents occupying a holiday only site, who would be otherwise trapped by alleged historic misspelling of chalets.
- Support amongst complaint holiday occupiers for residential occupancy.
- Enhanced security from permanent resident's oversight.
- Greater economic support for local businesses and facilities from residential users.
- Enhanced site appearance from residential pitches.
- Support longer term viability of the Chalet Park.
- The site is in an otherwise sustainable location with good access to local services and facilities, without reliance on private car.

A Twenty-Four Signature petition has been submitted which supports the proposals to end uncertainty and concern arising from alleged mis-selling, enable those residents to continue their presence at the heart of this community and to otherwise consider this location as being a sustainable location for residential occupancy.

CONSULTATIONS

County Council (Highway) – "*...the Highway Authority would, as a minimum, expect to object to on transport sustainability grounds for reason of unacceptable proximity to everyday services and availability of alternative travel modes to the car.*"

In this particular case however the site is reasonably well located in regard to the Town of North Walsham and is connected to the Town by footway facilities. In terms of any concerns regarding additional traffic generation arising from the proposal the site access is well located and arranged with no record of personal accidents occurring in the vicinity of the site in the last five years.

Accordingly, I have no reason to resist the granting of permission.”

NCC Flood & Water Management (LLFA) – Amended plan / information comments:

“After reviewing all the documents provided there is sufficient information to demonstrate the change to this condition can be met. The information provided shows that all permanent residential caravans are to be located in an area of no flood risk and an evacuation plan has been provided. The removal of Condition 2 needs to be applied in line with the provided information:

- Drawing no: 2 – Surface Water Flood Zone Area. (Feb 2020)*
- Officer Report on Planning Application: 18/00116/FUL*
- Email titled: The Meadows - Alder Country Park, North Walsham - Planning*

Application PP-08295740 - PF/19/2003 (sent 25th February 2020)”

County Council - Planning Obligations Co-Ordinator – *“It is understood from our discussions that the proposal will result in only 50% of the site being full time residential occupancy and that this 50% of the site will be subject to an over-55 occupancy condition. Subject to this condition being imposed, the County Council would not seek planning obligation contributions towards education, library or green infrastructure and would not have concerns about the proposal on this basis.”*

Latterly, confirmed the proposed amendments do not materially change the above comment and therefore no objections are raised.

Anglian Water – *“The variation of condition application number 2 is not foul or surface drainage related, therefore this is outside our jurisdiction for comment.”*

Landscape Officer – *“The impact of the trees with regards to liveability issues such as shade, debris, leaves and pigeon mess and the fear of the trees falling in close proximity of a resident or building will put excessive pressure on the trees. It is considered that any residents would be put in a situation where they would be living in a perceived fear of the trees and would not be able to enjoy their long term amenity in relation to a dwelling. In some cases there would be restricted shade free garden area to be enjoyed and again this would affect amenity as well as practical dwelling issues such as washing lines.”*

Economic and Tourism Development Manager – *“In consideration of planning application PF/19/2003 the Economic Development Team raises - no objection. It is recognised that there are potential economic benefits that would be derived by such a proposal. We would therefore be keen to support this application. These comments reflect the economic impacts of this application and are without prejudice to others or matters of non-economic concern.”*

NNDC Local Housing Enablers, NNDC – some potential to increase the use of the caravans and chalets on the site and to provide some permanent homes. On this basis Housing Strategy has no objection to the proposal.

Specific benefits which may result from the removal of the restriction.

1. It may be possible for the council to discharge a duty to secure housing for a homeless household if a suitable caravan/chalet is available to let.
2. Home owners/tenants on the site will be able to apply to the Council for help with adaptations to remain in their home.

Affordable Housing - It might be reasonable to require a s106 contribution either as a monetary sum or alternatively in the form of some caravans/chalets let at affordable rent to applicants from the Council's housing register.

Licensing (Environmental Health) – Comments to be reported.

Environmental Health – No objections.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

POLICIES

Local Guidance:

North Norfolk Core Strategy (Adopted September 2008):

Strategic Policy:

Policy SS1 – Spatial Strategy for North Norfolk

Policy SS2 - Development in the Countryside

Policy SS3 – Housing

Policy SS4 – Environment

Policy SS6 - Access and Infrastructure

Development Management Policy:

Policy HO1 - Dwelling Mix and Type

Policy H02 – Provision of Affordable Housing

Policy EN 2 - Protection and Enhancement of Landscape and Settlement Character

Policy EN 4 - Design

Policy EC8 - Retaining an Adequate Supply and Mix of Tourist Accommodation

Policy EN10 – Development & Flood Risk

National Guidance:

National Planning Policy Framework (NPPF) (2019)

CONSTRAINTS

Local Development Framework Tourism Asset Zone

Environment Agency Risk of Flooding from Surface Water 1 in 1000 annual probability.

Area susceptible to groundwater flooding.

Environment Agency Risk of Flooding from Surface Water 1 in 100 annual probability.

Environment Agency Risk of Flooding from Surface Water 1 in 30 annual probability.

SFRA - Risk of Flooding from Surface Water - Annual Exceedance Probability 1% + 40%
Climate Change Modelling

Risk of Flooding from Surface Water 1 in 100-year event (1% Annual Exceedance Probability)
plus 40% increase due to climate change.

Designated area within which additional controls over the display of advertisements apply

MAIN ISSUES FOR CONSIDERATION

- 1 Background
- 2 Principle
- 3 Flood Risk
- 4 Arboriculture
- 5 Infrastructure provision

APPRAISAL

- 1 Background

The Council imposed a condition when approving relaxation of holiday occupancy controls to permit year round holiday occupancy of chalets. The key condition (2) on application 04/1449 requires that:

“Each caravan and chalet on the site shall be used for holiday accommodation purposes only and shall not be used as the sole or main residence of its occupiers.”

At that time the condition was required on a planning policy basis so as to otherwise provide a policy complaint proposal in a designated Countryside area. Committee minutes from that 2004 meeting show a concern from the members as to potential for breach of condition and the site being occupied on a residential basis and so were supportive of the condition being imposed.

Officers consider that this condition has remained lawful and enforceable within the context of the 2004 planning permission. The applicant's legal opinion is publically available as a supporting document to this case, Counsel's opinion is that the condition remains in force.

The intervening time period from 2004 has delivered a number of breaches on site, Council Tax records and the residents on site suggest the number of Breaches (i.e. chalets occupier as main dwelling) is between 24 to 30 units of the total number of 140 chalet bases. Investigations show the balance of probability is that no chalet has been occupied as a main residence for a period in excess of 10 years. As such for those currently in breach, on the application site, then it appears that no resident would be otherwise exempt from planning enforcement control.

Officers, local members and former MP Norman Lamb have recognised the sensitivities of this matter. A series of discussions has been undertaken with those residents living in chalets and in apparent breach of the planning condition. Those in breach have alleged misselling of the chalets by the former park owner and have explained to the Council that significant personal hardship would arise if enforcement actions were undertaken. It is appreciated since the "park" recently changed hands that the owners have been endeavouring to find an amicable solution to this difficult problem.

The Council have been pursuing discussions with the new site owner, since that time positive discussions have taken place which gave rise to consideration of three options:

- I. Enforcement action, with extended compliance period to mitigate personal hardship.
- II. Granting planning permission for individual units, subject to a s106 agreement requiring the residential units identified to revert back to holiday use after either an agreed time period or upon cessation of occupancy by the current resident/s.
- III. Submitting an application to amend the conditions relating to this site to enable it to be used for both holiday and residential.

The applicants have chosen to pursue option 3 as it is considered to *"provide a solution in planning terms and would allow the occupants to continue to live on site without the worry of enforcement, and provides flexibility with the site going forward, especially given its sustainable location immediately adjacent to the settlement boundary."*

2 Principle

The residential occupation of caravans would not result in a material change of use. A Section 73 application is made to remove the restrictive condition.

Strategic considerations:

Policies SS1 & SS2 set out the Council's settlement hierarchy and approach to distribution of development and gives specific reference to controls in identified countryside areas. The application site is in a countryside area where more restrictive controls apply to development. The proposals do not comply with Policies SS1 & 2

Policy SS3 relates specifically to housing provision and requires a varied housing mix to be available within the district. The proposals would provide smaller scale residential units to those who are downsizing, predominantly to over 50 years old.

Policy SS4, 'Environment', states that all development proposals will contribute to the delivery of sustainable development, ensure protection and enhancement of natural and built

environmental assets and geodiversity. Residential use of units permitted for year round tourism use has no significant adverse impact on these matters.

Policy SS6, relates to 'Access and Infrastructure', this requires that new development should be supported by, and have good access to, infrastructure, open space, public services and utilities. The transport strategy for North Norfolk is to maximise the use of non-car modes, within the context of a rural area where, for many trips, there are limited alternatives to the car.

In terms of sustainability and accessibility, the site is located immediately adjacent to the settlement boundary; there is sufficient infrastructure nearby to sustainably accommodate residents. Services and amenities within North Walsham including large supermarkets, shops, dental surgeries, opticians, pharmacies, leisure centres, cafes, restaurants and banks, etc. North Walsham are within a walkable and cycle able distances. Good access to public transport is available, North Walsham railway station is located 1.3 miles away. Multiple bus services can be accessed both at Bacton Road and Bluebell Road being within a five-minute walk. These stops provide access to CH2 Coasthopper bus service which provides access to Swafield, Trunch, the coastal villages of Mundesley and Trimmingham and finally the tourist seaside town of Cromer which provides multiple amenities and services as well as multiple tourist attractions. Limited residential use at the site would not generate significant vehicular movements above that experienced under the base line of the existing 12-month Tourism use.

Development Control Policies:

Policy EC8 of our plan is a key consideration, this requires that an adequate supply and Mix of Tourist Accommodation is provided within the district. The applicant considers that the policy is predicated on out of date evidence from 2005 and so should carry less or nil weight. I disagree as the policy is otherwise within the remit of the NPPF requirements relating to tourism provision in national planning policy.

I am persuaded that each case relating to re-use of tourism facilities should be addressed upon the local impact of those proposals. In this case members may note the comments from our Economic Development Team. The consultation response poses no objection to the residential elements on the site being an important facility or that adequate provision is otherwise not available. The comment recognises that there are potential economic benefits that would be derived from the changes. I see that the comment concludes that "*We would therefore be keen to support this application.*" On this basis then I would consider that the proposals are compliant with Policy EC8.

Policy EN 2 relates to Protection and Enhancement of Landscape and Settlement Character states that 'proposals for development should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment and features identified in relevant settlement character studies'. Partial residential use of the site in this instance, that utilises existing caravan units, is considered to have greater pressure for the felling or lopping of trees adjacent the proposed residential units. The applicant disagrees with this view suggesting that the impact is limited. I am persuaded that the proposals may on balance have some impact by virtue of their residential use. On this basis then I am persuaded the proposals will not comply with policy EN2.

Policy EN 4 'Design' states that "All development will be designed to a high quality, reinforcing local distinctiveness... Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable". In this instance, the residential use of part of the site does not involve any additional or new operational development that might require planning permission.

On this basis then I consider that the proposals will comply with the highlighted policies and the wider local plan and national guidance but cannot meet the provisions of policies SS1 & SS2.

3 Flood Risk

A central corridor within the application site lies within a zone susceptible to flooding (surface water flood path), NCC as Lead Local Flood Authority (LLFA) initially objected to the proposals on the basis of *“the changes that have been put forward now increase the vulnerability class of the development to highly vulnerable.”*

Further technical evidence was requested along with details of proposed mitigation measures and an evacuation plan. The applicant has subsequently met with the LLFA and Council officers and has produced amended supporting guidance.

- A plan indicating where the areas of the surface water flow path will impact.
- Proposals to relocate any residents impacted by the surface water flow path within a 12 to 18-month period, dependent on personal circumstances and to minimise risk / disruption to residents.
- No residential occupancy within the flow path area following the agreed relocation process.

Confirmation of agreement to a proposed condition worded as follows:

“Any caravan that is wholly or partly situated within the area shown shaded on the attached plan shall not be occupied as a sole or main residence. Such units shall be occupied for holiday purposes only.”

The amended details have been subject to further consultation LLFA have confirmed that the above amendments will satisfy their concerns. I consider the proposals will comply with policy EN10 of the Local Plan.

4 Infrastructure provision

Comments of consultees have initially raised questions as to infrastructure contributions from the proposed variation of condition to permit residential use on a year round tourism site.

Housing - housing strategy have confirmed no objections to the proposals noting that relaxation of the condition may make some units available to resolve urgent temporary housing needs. Further, that as residential units that residents will be able to apply for funding to adapt their homes to meet disability requirements. A point was raised regarding potential requirement for S106 contribution from the uplift in values arising from residential use on the site.

Although, I can agree that an uplift in value may arise from the proposals the terms of policy H02 relate to the erection of new dwellings or conversions of buildings to dwellings. These proposals are not captured by either provision and so are exempt from any contribution under H02.

NCC S106 contribution team initially concerns raised over the presence of residential users at the site as against year round tourism use which would impose a lesser burden on local services. Subsequently, agreed no service contribution would be required if a suitable age

restriction is imposed on residential occupancy so as to ensure no adverse impact on local schools' capacity.

On this basis then I conclude the proposals are otherwise compliant with Policy SS6 Access & infrastructure.

Conclusions:

It is appreciated that concerns were initially expressed by Development Committee in 2004 over potential residential uses at this site. During the intervening years planning policy has changed, the advent of the NPPF has enabled a more flexible consideration of proposals which are in countryside locations and may be departures from adopted policy consideration.

The proposals are considered to have an additional potential impact upon the trees under preservation order across this site. The Councils Landscape Officer objects to the proposals, I consider that the proposals fail to comply with policy EN2. However, I am persuaded that this impact will be limited in the first instance by the location of those residents currently in breach of the restrictive position. Further that the existing presence / protection of those trees considered important under the preservation order will ensure suitable retention of important assets. For those existing residents then the presence of those trees is a known and cannot be reasonably be adding to a perception of fear on this matter. The balance of numbers across the site is predominantly tourism use 90:30, it is therefore the benefits of permitting this change can currently outweigh the potential harm that may arise through perception of fear issues from existing. In terms of future consideration then those features of importance at the site are otherwise protected by Tree Preservation Orders.

The proposals are considered to be a sustainable form of development, key in this consideration is the location of this site, and its access to local transport links, facilities and services as being immediately adjacent to the district's largest centre of population. I consider that the principles that support a positive recommendation to this application are a rare set of precedents which cannot be readily repeated elsewhere. The proposals therefore present a suitable departure from the approved plan policies which can be supported as an otherwise sustainable development under the NPPF.

RECOMMENDATION:

APPROVE subject to conditions relating to the following matters and others considered necessary by the Head of Planning:

- No residential occupancy within identified flood risk area
- A scheme for the relocation of any caravan that is wholly or partly situated within the flood risk area to be relocated beyond identified flood risk within a period of no more than 18 months
- A scheme for the emergency flood evacuation
- A scheme of provision to be agreed for 24-hour caretaker services at the site
- All residential occupancy (other than as agreed for caretaker provision) to be restricted to Over 50 years old.