

APPLICATION: MA/11/2190 Date: 22 December 2011 Received: 5 January 2012

APPLICANT: Mr Fred Sines, Sines Parus LLP

LOCATION: PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE, KENT, ME17 1NZ

PARISH: Harrietsham

PROPOSAL: Variation of condition 2 of permission MA/03/2343 (extension of the holiday park's season from 8 months to 10 months) to allow the use of touring caravans, tents and static caravans for holiday purposes all year round (excluding the 18 permitted residential static caravans) as shown on A4 site location plan received on 22nd December 2011.

AGENDA DATE: 29th March 2012

CASE OFFICER: Richard Timms

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by Harrietsham Parish Council
- It is a departure from the Development Plan

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV33, ENV34, ED20
- South East Plan 2009: C3, TSR2, TSR5
- Government Policy: PPS1, PPS4, PPS7
- Good Practice Guide on Planning for Tourism 2006

## **2. HISTORY**

MA/11/1753 - Retrospective application for stationing of mobile home for residential accommodation by caretaker – APPROVED WITH CONDITIONS

MA/11/0897 - Erection of a double garage – APPROVED WITH CONDITIONS

MA/11/0384 - Advertisement consent for the installation of an externally illuminated freestanding sign (retrospective application) – REFUSED

MA/10/1620 - An application a Certificate of Lawful Development for an existing use being the stationing of a mobile home for residential purposes – WITHDRAWN

MA/08/1128 - Extensions and alterations to clubhouse – APPROVED WITH CONDITIONS

MA/07/0142 - Variation of condition 1 of MA/96/1132 to increase the number of residential units on site from eighteen to twenty seven with reduction of holiday units from 180 to 171 – REFUSED & DISMISSED AT APPEAL

MA/03/2343 - Variation of condition 2 of planning permission MA/96/1132 relating to Hogbarn Caravan Park, Harrietsham to extend the Park's season from 8 months to 10 months – APPROVED WITH CONDITIONS

MA/02/2056 - Variation of condition 04 of planning application reference MA/96/1132 to enable static holiday caravans to be sited on an area of the southern part of the site restricted to touring caravans – APPROVED WITH CONDITIONS

MA/96/1132 - Use of land for the siting of 180 holiday caravans and 18 residential caravans (including extension to currently permitted site) – REFUSED & ALLOWED AT APPEAL

MA/83/0934 - Construction of internal roads, car parking and caravan hardstandings for 178 holiday caravans and 1 residential caravan – APPROVED WITH CONDITIONS

### **3. REPRESENTATIONS**

3.1 Harrietsham Parish Council wish to see application REFUSED.

*"Harrietsham Parish Council wish to see the above application refused as changing the licence to 12 months would result in a change of use to residential development. This is outside of the village envelope and in an area designated as the Kent Downs Area of Outstanding Natural Beauty and North Downs Special Landscape Area.*

*This application would represent an unsustainable form of development with poor public transport connections and not readily accessible to local services that would be required to service the development.*

*The change of 161 units from holiday use to 12 month occupancy, would bring items of domestic clutter associated with permanent residential accommodation, which would visually harm the character and appearance of the open countryside, the Kent Downs AONB and the North Downs Special Landscape Area."*

3.2 Two neighbour representations received raising the following points:

- Will create a permanent village in the AONB.
- People are living at the site without permission.
- Owners of the site will do what they want.
- Strain on highways and infrastructure.
- This is a housing estate under a different name.
- Units are being positioned too close to boundaries.
- Lack of adequate screening during winter months.
- Light pollution.
- Purchasers were well aware of 10 months conditions.
- Visually intrusive.
- Increased density.
- Loss of privacy.
- Approval will contravene Inspectors decision.
- Contrary to policies.
- Will set a precedent.
- Carbon footprint.

3.3 Pilgrims Close Residents Association (summarised points):

- No objections and residents are in support of the application.
- Very simple change of condition from 10 months usage of the leisure park to 12 months usage of the leisure park, allowing the current occupiers to come and go as they please throughout the year without any restriction.

## **4. CONSIDERATIONS**

### **4.1 Introduction**

4.1.1 This is an application for the variation of condition 2 of permission MA/03/2343 (which restricts the use of holiday units for 10 months of the year) to allow the use of touring caravans, tents and static caravans for holiday purposes all year round at 'Pilgrims Retreat', Hogbarn Lane, Harrietsham.

## **4.2 Site Description & Planning History**

- 4.2.1 The application relates to a large site which has a mixed permission as a holiday caravan and camping park (180 caravans or tents) and for 18 caravans for permanent residential use. The site dates back to 1967 when it was originally granted permission, albeit over a smaller area. Later permission was granted in 1997 at appeal under MA/96/1132 for a larger site and this allowed the 180 holiday pitches and 18 residential caravans. A revision to the layout was granted under MA/02/2056 and an extension of the occupancy period of the holiday units from 3<sup>rd</sup> March to 3<sup>rd</sup> January in any year was granted under MA/03/2343. Application MA/11/1753 recently granted permission for an additional 19<sup>th</sup> residential unit, restricted by condition to caretaker accommodation only.
- 4.2.2 The site is located on the slope of the North Downs, around 2km north of Harrietsham, and on the south side of the rural and unclassified Hogbarn Lane. It is within open countryside falling within the Kent Downs AONB and Special Landscape Area. There are a number of residential properties on Hogbarn Lane including houses directly adjoining both sides of the site.
- 4.2.3 The residential element of the park is contained in an area on the north-east side of the park, behind the site reception/office building and caretaker accommodation unit. This contains the maximum permitted permanent 18 residential units. The remainder of the site is taken up by holiday homes including 'static park homes' mainly on the north and west sides, and centrally within the site and a row of mobile homes near the south boundary of the site. Buildings housing the clubhouse, bar, swimming pool, gym, changing rooms, and ancillary accommodation, are centrally within the site.
- 4.2.4 The park is fairly well screened from Hogbarn Lane by a belt of woodland and other planting and vegetation on and around the entrance to the site, although broken views of the homes are possible in the winter. This woodland area is protected under TPO No. 10 of 2003 as are areas of woodland in the south part of the site. It is, however, quite exposed from the public footpath KH209A which runs to the south-west of the site, and to a lesser extent from public footpaths KH288 and KH286 further to the south.

## **4.3 Enforcement Background**

- 4.3.1 On 11<sup>th</sup> January this year, the Council served a number of Breach of Condition Notices in relation to condition 2 of permission MA/03/2343 (the condition subject to this application). This condition prevents occupation of any holiday units between 3<sup>rd</sup> January and 3<sup>rd</sup> March each year. Evidence that these conditions were being breached and people were living at the site was gathered and Breach of Condition Notices were served on 33 persons. Further evidence

has been gathered that the requirements of the Breach of Condition Notices have not been complied with. Consequently, those people are open to prosecution action from the Council for the breach. However, such action is pending following the outcome of this application. Notwithstanding this background, this current application must be assessed on its own merits and issues relating to the Breach of Condition Notices cannot form a reason for objecting to the application.

#### **4.4 Proposal**

- 4.4.1 Permission is sought to vary condition 2 of permission MA/03/2343 to allow the use of touring caravans, tents and static caravans for holiday purposes all year round. Essentially this would be to remove any non-occupancy period for the holiday accommodation but it would still be for holiday purposes and permanent residential accommodation is not being sought.
- 4.4.2 The applicant's agent states that the application seeks to allow people to take holidays on the park at any time of the year to reflect customer demand and to offer a similar season to other holiday sites in the area. He also states that many recent appeal decisions have allowed a longer season of use with consideration being given to the 'Good Practice Guide on Planning for Tourism' (2006).

#### **4.5 Assessment**

- 4.5.1 The consideration of this application must be mainly based upon the reasons for imposing condition 2 of MA/03/2343. This condition states as follows –

*"The site shall not be open to touring caravans and tents and static caravans shall not be occupied between 3 January and 3 March (inclusive) in any year.*

*Reason: To ensure that the site remains in use as holiday accommodation in view of the site's location in the open countryside wherein there is a general presumption against residential development and pursuant to policy ED20 of the Maidstone Borough-Wide Local Plan 2000."*

- 4.5.2 Policy ED20 of the Local Plan relates to holiday caravan and camping sites and at the end of the policy it states that,

*"A holiday occupancy condition will usually be attached, preventing use of the site as a permanent encampment. The condition will limit occupation to a specified ten month period in any calendar year."*

- 4.5.3 So the main issue is whether the proposed variation of the condition to allow year round holiday use would still ensure the site remains in such use bearing in

mind potential conflict with policy ED20 of the Local Plan 2000. More recent policy and guidance must also be taken into account bearing in mind the age of that policy. Consideration must also be given to any effects year round holiday use would have on the area.

#### **4.6 Control over permanent residential occupancy**

- 4.6.1 The Government's 'Good Practice Guide on Planning for Tourism' (2006), which was published following the cancellation of PPG21: Tourism in 2006, must be given weight in the consideration of this application because it provides the most up to date guidance. As such, it is guidance to which the Local Planning Authority must have regard when making planning decisions and is therefore a material consideration.
- 4.6.2 Paragraph 23 recommends that local planning authorities should give sympathetic consideration to applications to extend the opening period allowed under existing permissions. Annex B specifically deals with seasonal and holiday occupancy conditions and outlines that the nature of holidays has become increasingly diverse, in location, in season and in duration. Many people go away several times a year, often for short breaks and not exclusively in the summer months. The guide refers to 'seasonal occupancy' conditions but advises their use only if seeking to protect the local environment where, for example, use of a site might affect an important species of bird during its breeding seasons or when it is winter feeding. Essentially this guide is advising local planning authorities to be flexible and only impose seasonal conditions for specific environmental reasons.
- 4.6.3 I am aware of recent appeal decisions relating to holiday accommodation (outside the Borough), and the applicant has drawn my attention to some, where Planning Inspectors have taken the approach in this guidance. The general view being that although traditionally a 'closed period' has been imposed on caravan parks, tourism is a year round activity with closed periods only needed in specific circumstances and that such conditions can be unduly onerous in the context of the current holiday market. Inspectors have considered that year round holiday use can be acceptable. I am also mindful that recent permissions have been granted in the Borough which do not require a close in the occupancy period. For example, 'Cherry Tree Park', Church Hill, Boughton Monchelsea, that was granted at Planning Committee on 11<sup>th</sup> August 2011. In this case a condition requiring that caravans shall be occupied for holiday purposes only.
- 4.6.4 However, there is obviously still a need to prevent a permanent residential use in the countryside, which is contrary to established planning policy. This is commonly in the form of a condition restricting the caravans to holiday purposes

only and not being occupied as a person's sole or main residence. Importantly, registers of names of owners and their main home addresses can also be required. This condition was attached in the case of the 'Cherry Tree Park' site referred to above and my opinion is that such a condition would be sufficiently robust to enable enforcement action to be taken against any potential breaches, and thus suitable to prevent permanent residential occupation.

- 4.6.5 Taking the more recent guidance, appeal decisions and decisions by the Council into account, I consider the principle of removing the closure period can be accepted despite the conflict with policy ED20 of the Local Plan. From the policy framework, an assessment of modern practice and appeal decisions it is my opinion that it would be unreasonable not to remove this condition and not to do so would be contrary to the advice in Circular 11/95: Use of Planning Conditions. Importantly, an appropriate condition could still prevent the site from permanent occupancy as follows.

*All accommodation units (excluding the 19 caravans previously permitted for permanent residential use) permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable time to the local planning authority.*

- 4.6.6 As stated above, any approval of this application will mean that prosecution action cannot be taken as the condition on which the Breach of Condition Notices have been served will cease to exist. However, a new condition will ensure control of the site and enforcement action can be taken again (in the form of a Breach of Condition Notice) if deemed appropriate and necessary.

#### **4.7 Outward impacts of year round holiday use**

- 4.7.1 Any increase in use in the additional two months of the year in my view is unlikely to result in a significant increase in noise or disturbance in the local area or privacy issues above the lawful use. There may be more comings and goings and activity at the site during these two months than at present, but this is unlikely to be at a level experienced during summer months, which has been accepted and is permitted at the site. On this basis, I do not consider the proposal would result in unacceptable living conditions above the permitted use for nearby residential properties both within the site and outside.

- 4.7.2 Similarly, I do not consider use within the additional two months would result in any significant increase in the impact upon the landscape. The site is not

currently at its capacity for holiday units and an approval of the application might prompt the owner to move more caravans on the site for holiday use. However, this is not a certainty and in any case the owner is permitted to do this at present. There is some limited space for units centrally and within the southern part of the site but any units here would largely be seen in the context of existing development. Overall, I do not consider any additional landscape impact, which can occur at present in any case, is grounds to object.

4.7.3 Overall, I do not consider that year round holiday use of the site would harm the landscape or the amenity of nearby residents.

#### **4.8 Highways**

4.8.1 Any increase in vehicle movements for the additional two months of the year in my view is unlikely to be significant in the local area and is unlikely to be at a level experienced during summer months, which has been accepted and is permitted at the site. On this basis, I do not consider the proposal would result in any highway safety issues above the permitted use.

#### **4.9 Other Matters**

4.9.1 Other matters raised by local residents and not considered above include a potential strain on infrastructure, units being positioned close to boundaries, precedent and increased carbon footprint. I do not consider the potential additional use for two months would put such a strain on local infrastructure above the permitted use that warrants objection. I do not consider this decision sets any precedent as each application must be judged on its own merits. Whilst the additional use may result in an increase in the carbon footprint of the site, this must be balanced against the benefits to tourism and the compliance with planning guidance and policy. I do not consider any increase is sufficient enough to warrant on objection to the application. The proximity of caravans to site boundaries is not controlled by the original planning permission and cannot be considered under this application, which only concerns the year round holiday use.

### **5. CONCLUSION**

5.1 Bearing in mind more recent guidance, appeal decisions and decisions by the Council, I consider the principle of removing the restricted occupancy period can be accepted despite the conflict with policy ED20 of the Local Plan, and that it would be unreasonable not to remove this condition contrary to the advice in Circular 11/95: Use of Planning Conditions. An appropriate condition would still prevent the site from permanent occupancy and can be enforced against if breached.

5.2 It is not considered that the holiday use of the site for an additional two months would result in any unacceptable living conditions above the permitted use for nearby residential properties or any harmful impact upon the landscape or highway safety issues. For these reasons, I recommend permission subject to the following condition.

## **6. RECOMMENDATION**

Subject to the expiry of the site notice and advert publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues, I be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following condition:

1. All accommodation units (excluding the 19 caravans previously permitted for permanent residential use) permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable time to the local planning authority.

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency, which would be contrary to National and Local Plan Policy discouraging the proliferation of new dwellings in the countryside and in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

The proposed development is not in accordance with policy ED20 of the Maidstone Borough-Wide Local Plan 2000. However, the development does comply, subject to the conditions stated, with the more recent advice and guidance contained within the Good Practice Guide on Planning for Tourism 2006. This is considered to represent circumstances that outweigh the existing policies in the Local Plan and there are no overriding material considerations to indicate a refusal of planning consent.