

**8. VARIATION OF CONDITIONS 2 AND 3 ON NP/DDD/0219/0137 ALSOP RIVENDALE TOURING CARAVAN AND LEISURE PARK UNNAMED SECTION OF A515 FROM CROSSLOW LANE TO BACK LANE ALSOP EN LE DALE NP/DDD/0120/0056 JEN**

APPLICANT: MR RODGER VAIL

Summary

Site and Surroundings

1. Rivendale is a large and long established camping and caravanning site located to the southern side of the A515. The site has an area of 14.5 hectares, a large section of which is a former quarry. The rest of the site is wooded grassland and areas that have been hard surfaced.
2. The existing site comprised of a total of 186 caravan and camping pitches. These pitches comprised of 37 static caravans and wooden lodges, 33 winter storage touring pitches, 51 touring pitches, 44 camping pitches, 15 pods, 2 yurts and 4 B&B rooms. The site is currently undergoing redevelopment with 75 lodges and 25 camping pods permitted to be installed.
3. The site is accessed directly from the A515. To the south west there is a large wooded area that is proposed to be used for camping.
4. In the central area of the site there is a new facilities building under construction. This building serves as a reception, restaurant and bar.
5. To the east of this building the site opens into the former quarry floor and is surrounded by the high quarry walls. This area is where the lodges are being located and where the units subject to this application are situated.
6. A public right of way enters the site at the same point as the vehicular access and crosses the site before joining the open fields to the south of the site.
7. To the north of the site, beyond the A515, there are open fields. The Tissington Trail lies only a few metres further north of the A515. The site is also surrounded by open fields to the south. There is a row of residential dwellings that lie about 100 metres from the southern boundary of the site. These are the nearest neighbouring properties.

Proposal

8. The proposal is to vary conditions 2 and 3 of planning permission NP/DDD/0219/0137 in order to facilitate the retention of 4 units on the site which have existing site licences. There is also a minor change to the ground levels proposed near to the maintenance building.

**RECOMMENDATION:**

**That subject to the applicant entering into a unilateral undertaking to agree relinquishment of existing planning permissions and rights, and to commit that on expiration the 4 licenses shall not be extended or renewed, that the units will all be replaced with cabins in line with the remainder of the site not later than one month after the expiration of the site license in each case, and that the letting after each of the site licenses expiration will immediately be restricted to occupation for short term holiday use of no more than 28 days per year by any one person, in line with the remainder of**

the site; the application be APPROVED subject to conditions to control the following elements:

1. Time limit for commencement.
2. Development to be carried out in accordance with the submitted plans.
3. Holiday occupancy restriction of 28 days to be placed on all units with the exception of the four units identified as 'existing plots' on 'Revised proposed masterplan plan B' dated 22/05/2019.
4. The four units identified as 'existing plots' on 'Revised proposed masterplan plan B' dated 22/05/2019 for the term of each of their existing site license shall be occupied for no more than 28 days consecutively by any one individual and no more than 56 days in total in any calendar year by any one individual. After the term of each of the site licenses expires or, if earlier, is terminated or otherwise is abandoned the unit shall be occupied for no more than 28 days by any one individual in any calendar year.
5. In respect of the four units currently sited on the plots identified as existing plots' on 'Revised proposed masterplan plan B' dated 22/05/2019, the 4 plots can remain static caravans until each of the respective site licence expires as follows:  
Unit 1: signed 21/07/2017    Ends: 31/12/2047  
Unit 2: signed 02/12/2016    Ends: 31/12/2033  
Unit 3: signed 10/11/2016    Ends: 21/12/2032  
Unit 4: signed 28/01/2014    Ends: 31/12/2045  
or, until such licence is terminated or otherwise is abandoned.

On the expiry of each of the licences or at the time that any of the licenses are terminated or otherwise abandoned:

- a) the related static caravan shall be removed from the site within two weeks of the expiration of the license
  - b) the plot shall thereafter only be used for the placement of a lodges to match the specification and appearance approved elsewhere on the site.
  - c) This condition does not prevent the replacement of any of the 4 static caravans with a lodge to match the specification and appearance approved elsewhere on the site at any time earlier than the expiration of the site license and the occupation would continue to be limited by condition 4 for the duration of the license unless otherwise terminated or otherwise abandoned.
6. The 4 units shall count towards the maximum permitted numbers of 75 lodges – i.e. caravans.
  7. The field barns are to be omitted from the scheme other than the single barn that is only for a replacement bat roost.
  8. Contaminated land remediation to be carried out as approved.
  9. Ecology mitigation to be implemented as approved.
  10. Facilities building is for use by overnight guests only.
  11. The accommodation within the maintenance building shall be for occasional staff use only and shall not be let to visitors or be a permanent dwelling.
  12. Renewables to be implemented.
  13. Travel plan to be adopted and implemented.
  14. Materials and colour details of all units to be implemented as approved.
  15. Lighting scheme to be implemented as approved.
  16. Scheme for grassland enhancement to be implemented as approved.
  17. Provision and retention of parking spaces.
  18. Materials and glazing details for new facilities and maintenance buildings to be implemented as approved.
  19. Drainage strategy to be implemented.
  20. The lodges, cabins and camping pods shall only be sited in accordance with the submitted plans and no units shall be sited elsewhere within the

21. application site.
22. Total number of lodges and cabins shall not exceed 75 and the number of camping pods will not exceed 25 no other static or touring caravans shall be brought onto the site at any time.
23. Camping pods shall not include kitchen facilities and shall be no larger than as set out on plans.
24. Landscaping scheme shall be approved
25. Scheme for protection of trees and replacement to be approved.
26. Removal waste and demolition materials prior to occupation unless otherwise approved.

#### Key Issues

- Whether the retention of existing units affects the degree of enhancement offered to such an extent that the scheme no longer complies with policy RT3 and GSP1.
- Whether rolling forward the existing occupancy restriction is reasonable.

#### History

There is extensive planning history for the site, including the following applications:

- July 2019: Planning permission was granted for the replacement of the caravans and structures with lodges, erection camping pods and tree houses and erection of a new maintenance building and erection of a new facilities building.
- January 2011: Application approved for removal of 2 existing static caravans and toilet and shower building and replacement with a new single building.
- December 2009: Application approved to relinquish a permission on plot D and transfer it to plot B.
- February 2007: Application for conversion of agricultural building into four bedrooms with ensembles was not determined by the Authority. An appeal against non-determination was then allowed in August 2007.
- January 2006: Application refused for removal of a condition restricting sales of food and alcohol from the bar and restaurant to overnight guests. An appeal against the refusal was dismissed in October 2006.
- April 1999: Application approved for the conversion of the former farm buildings to bar and café.
- September 1997: Application refused for siting of mobile homes as an alternative to touring caravans. An appeal was later part-allowed.
- November 1994: Application refused for a camping and caravanning park with new and converted associated building. An appeal was later allowed.
- July 1985: Application approved for use as a caravan and camping site.

#### Consultations

Highway - No objections  
Parish - No objections  
Environment Agency – No objections  
Natural England – No objections  
PDNPA Landscape – No objections  
PDNPA Policy – No objections  
PDNPA rangers – No objections

#### Representations

9. 23 representations have been received from 11 named individuals. All representations have been made by licensees or their family members.
10. These representations object specifically to a condition restricting occupation of the units to no more than 56 days in any calendar year. The licensees contend that they have routinely breached the condition and that therefore its application to any new consent is unreasonable.
11. They consider that the condition is unfair as they contend it is not a condition applied elsewhere.
12. They consider that the static caravans are not short term holiday accommodation as they have not been sublet.

#### National Planning Policy Framework (NPPF)

13. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales: Which are; to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. When national parks carry out these purposes they also have the duty to; seek to foster the economic and social well-being of local communities within the National Parks.
14. The National Planning Policy Framework (NPPF) has been revised (2019). This replaces the previous document (2012) with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In particular Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
15. In the National Park, the development plan comprises the Authority's Core Strategy 2011 and the Development Management Policies (DMP), adopted May 2019. These Development Plan Policies provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the Development Plan and government guidance in the NPPF.
16. Main Development Plan Policies
17. Core Strategy
18. GSP1, GSP2 - *Securing National Park Purposes and sustainable development & Enhancing the National Park*. These policies jointly seek to secure national park legal purposes and duties through the conversion and enhancement of the National Park's

landscape and its natural and heritage assets.

19. Policy GSP3 sets out development management principles and that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
20. L1 - *Landscape character and valued characteristics*. Seeks to ensure that all development conserves and enhances valued landscape character and sites, features and species of biodiversity importance.
21. Policy L2 states that development must conserve and enhance any sites, features or species of biodiversity importance and where appropriate their setting. Other than in exceptional circumstances development will not be permitted where it is likely to have an adverse impact on any sites, features or species of biodiversity importance or their setting that have statutory designation or are of international or national importance for their biodiversity.
22. Policy RT1 states that The National Park Authority will support facilities which enable recreation, environmental education and interpretation, which encourage understanding and enjoyment of the National Park, and are appropriate to the National Park's valued characteristics. Opportunities for access by sustainable means will be encouraged.
23. Policy RT3 states that small touring camping and caravan sites and backpack camping sites will be permitted, particularly in areas where there are few existing sites, provided that they are well screened, have appropriate access to the road network, and do not adversely affect living conditions. It goes on to include the following relevant parts:
24. Static caravans, chalets or lodges will not be permitted.
25. Provision of improved facilities on existing caravan and camping sites, including shops and recreation opportunities, must be of a scale appropriate to the site itself.
26. Development that would improve the quality of existing sites, including improvements to upgrade facilities, access, landscaping, or the appearance of existing static caravans, will be encouraged.
27. Policy CC1 states that development must make the most efficient and sustainable use of land, buildings and natural resources.
28. Development Management Policies
29. DMR3 Holiday Occupation of Self Catering Accommodation, states that where self catering accommodation is acceptable, its use will be restricted to no more than 28 days per calendar year by any one person. Removal of 28 day occupancy conditions will be permitted in very limited circumstances provided that there would be no adverse impacts on the valued characteristics of the area or residential amenity, and provided that the dwelling is tied by legal agreement to occupancy in perpetuity by those in housing need and having the required local connection as specified in policies DMH 1 and DMH2; and that the dwelling is of a size specified in policy DMH1.

### Assessment

30. Principle of Development

31. The Authority's recreation and tourism policies are clear that static caravans, chalets or lodges will not normally be permitted. However, the supporting text to policy RT3 goes on to state that exceptionally, static caravans, chalets or lodges may be acceptable in locations where they are not intrusive in the landscape. There may be some locations where, through the use of effective design and landscaping, small, simple timber structures may be acceptable as replacements for existing static caravans where this would result in enhancement.
32. In determining application NP/DDD/0219/0137 it was concluded that the package of benefits that were secured at this long established site in terms of improved visitor experience, ecology and significantly improved appearance of the site, was sufficient to allow the proposal to be permitted. The replacement of the static caravans was a significant part of this benefit, but other factors such as improved landscaping and removal of shabby structures and facilities were also key to the decision.
33. This application does not require a full reconsideration of the principle of the development, as that is already permitted. The proposal in this case is to address the problem that has arisen for the developer, of 4 site licences for particular plots granted to individuals who do not wish to relinquish them. The expiry of the site licenses does not fit into the timetable for redevelopment. It is proposed that of the 4 units, one is provided as a lodge, in line with the others permitted on the site and 3 be provided as static caravans until the site licenses expire, at which point they would be replaced by lodges. The four units would at all times be within the total number of permitted units (75 lodges – ie caravans – and 25 camping pods).
34. The units were granted site licenses by the previous owner of the site as set out below:
- |                           |                  |
|---------------------------|------------------|
| Unit 1: signed 21/07/2017 | Ends: 31/12/2047 |
| Unit 2: signed 02/12/2016 | Ends: 31/12/2033 |
| Unit 3: signed 10/11/2016 | Ends: 21/12/2032 |
| Unit 4: signed 28/01/2014 | Ends: 31/12/2045 |

As you can see, the licenses have been granted for substantial periods of time.

35. The licenses grant permission for the holders to occupy caravans on the land but they do not own the land or have a legal interest in the land. The license holders are not the applicant for this application and would have no recourse to a planning appeal in relation to any decision or conditions.
36. Current policy DMR3 sets out that self catering holiday accommodation will be limited to no more than 28 days per year by any one individual. This is the restriction that applies to the chalet development permitted in 2019.
37. However, in this case, the previous consent that allowed the static caravans is a material consideration which should be given significant weight. That permission was granted through a planning appeal, and the Inspectors decision is dated 23 October 1998. In granting the permission the Inspector sets out limits on the use of static caravans 'for short let holiday accommodation; the caravans shall not be occupied by any one person either individually or as part of a group, for a continuous period exceeding 28 days, or for more than a total of 56 days in any calendar year. A register of occupants shall be maintained and made available for inspection by the local planning authority on request.'

38. To break down Condition 3, it firstly permits the static caravans for 'short term let holiday accommodation.' This prevents the units being occupied permanently. The terms of the license agreements lets the units to those individuals for use as holiday accommodation, in line with that part of the condition, whether the units were sublet is irrelevant. The second part of the condition states 'the caravans shall not be occupied by any one person either individually or as part of a group for a continuous period exceeding 28 days, or for more than a total of 56 days in any calendar year' and this sets out limitations the Inspector considered reasonable occupation restrictions to secure the use of the units as short term holiday lets.
39. On this basis it is considered reasonable to reflect that condition in relation only to the four retained units, as their licenses were granted with regard to that permission and its limitations. Although this is more generous than our current policy position, this is considered a reasonable restriction to roll forward into new conditions.
40. The license agreements provided to us all have a term that requires the licensees comply with the site rules appended to the licenses. The site rules reflect the condition imposed by the planning inspector. The agreements include the following text 'Only sign this legally binding agreement if you read it and fully understand its terms and conditions. Please discuss with us any terms you do not understand or do not wish to agree to, before signing.'
41. However, representations made by all the license holders and some of their family set out that they consider that the restriction to no more than 56 days is unreasonable. They contend that they were not made aware of this when they purchased their site licenses and that they have routinely breached that condition.
42. Beyond their representations we have no evidence to demonstrate that a lawful use has been attained by way of the condition being consistently breached for a 10 year period and no Certificate for Existing Lawful Use has been sought. The applicant (who is the site owner) has not provided any evidence to this effect. The Inspectors condition requires that a register of applicants be kept and provided to the Authority, but no information of this nature has been provided to substantiate the suggestion that the condition has been breached such that a lawful use has accrued. Little weight can be given to this in making the decision.
43. If the Licensees were unaware that the restriction applied in signing their license agreements, then they may wish to consider whether they can take this up with any solicitor that they used to take legal advice when they entered into the license.
44. The proposed condition is necessary to prevent full time permanent residential use of the units, reasonable, as although it goes beyond current policy this is directly related to material planning considerations, is enforceable, relevant to planning and the development, and precise.
45. It is proposed that a unilateral undertaking be provided by the applicant which would renew the matters already entered into and tie those to this permission, with an additional requirement that on expiration the licenses are not extended or renewed, that the units will all be replaced with cabins in line with the remainder of the site, and that the letting after that expiration will be restricted to occupation no more than 28 days per year by any one person, in line with policy DMR3 and the remainder of the site.
46. The number of units affected by this proposal is small and the benefits in terms of improved visitor experience and contribution of the site to nature conservation and landscape would still be realised. The medium term small impact of these 4 units being retained and occupied in a different way to the remainder of the site is acceptable and

the long term benefits of the site being occupied in line with current policy will still be realised.

47. Change in Ground Levels

48. The change in ground levels near the maintenance building is a minor change from the approved plan and will have no impact beyond the immediate vicinity within the site. This change is acceptable.

49. Conclusion

50. The majority of the benefits of permission NP/DDD/0219/0137 would still be delivered with this amendment in the medium term and all the benefits would be delivered in the longer term. The change is small scale in the overall site being only 4 units of 100 and is not considered to substantially erode the enhancement secured by the scheme. The proposed change is in accordance with policies GSP1, GSP2, GSP3, DS1, L2, RT1, RT3, DMR1 and DMR2.

51. Human Rights

52. Any human rights issues have been considered and addressed in the preparation of this report.

53. List of Background Papers (not previously published)

54. Nil

55. Report author: Jane Newman Head of Development Management