

Agenda Item A11	Committee Date 11 May 2009	Application Number 09/00262/VCN
Application Site Redwell Fish Farm, Kirkby Lonsdale Road, Over Kellet	Proposal Variation of conditions 4, 5, 6 and 7 on application 08/01219/CU relating to occupancy	
Name of Applicant Redwell Fisheries	Name of Agent Derek Hicks & Thew	
Decision Target Date 18 May 2009	Reason For Delay Not applicable	
Case Officer	Peter Rivet	
Departure	No	
Summary of Recommendation	Refusal.	

1.0 The Site and its Surroundings

- 1.1 Redwell Fish Farm occupies land on the south side of the road from Carnforth to Kirkby Lonsdale road, a short distance to the west of the Redwell Inn. At present the site contains a fishing lake, some associated buildings, and a touring caravan site.
- 1.2 The caravans are subject to a restriction which requires that they should only be on the site from the beginning of March and the end of October. This is because the deciduous planting screening the site is only effective when there are leaves on the trees.

2.0 The Proposal

- 2.1 When permission was granted in December last year for 13 timber holiday chalets in place of the 17 touring caravan pitches currently on the site, the conditions attached to the consent included the following:
4. The property shall be used for holiday-let accommodation only and for no other purpose, including any other purpose in Class C of the Town & County Planning (Use Classes Order) 2005, or in any provision equivalent to that Class in any subsequent Statutory instrument revoking or re-enacting that Order.
Reason: To ensure that inappropriate uses do not occur in this locality.
 5. The chalets shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year.
Reason: To ensure that the accommodation is properly used as short-term holiday accommodation.
 6. The caravans hereby approved shall be used for holiday accommodation only and shall only be occupied between 1 March and 31 January of the following year.
Reason: To properly limit the use of the caravans to holiday accommodation.

7. The development shall not be brought into use until a bound register relating to all of the accommodation hereby approved has been provided. The register shall be maintained at all times and shall be made available for inspection by the local planning authority on request. The register shall comprise consecutively numbered pages, which shall be kept in order, and each entry shall contain the name and address of the principal occupier together with the dates of occupation.

Reason: To ensure that the accommodation is properly used as short-term holiday accommodation.

- 2.2 The applicants' agents argue that conditions 4, 5 and 6 are unduly restrictive, put the business at a commercial disadvantage and have been unfairly applied. They have provided details of two recent appeal decisions in support of this position, one of which is in County Durham and the other within the North York Moors National Park. Copies of the relevant decision letters appear at the end of this report. They also refer to a decision by Teesdale District Council to relax the conditions attached to a chalet site at Evenwood Gate, near Bishop Auckland, which falls within their area.

- 2.3 It is clear from the letter accompanying the application that they would like the accommodation to be available for occupation on a year round basis.

3.0 Site History

- 3.1 The applications listed below are relevant to the present proposal:

Application Number	Proposal	Decision
97/01250/CU	Change of use of land for 17 touring caravans and alterations to toilet block	Approved
06/01410/FUL	Retrospective application to retain land remodelling and proposed raising of existing ground levels at south west corner of site	Refused
07/00048/TPO	Removal of trees specified on plan	Approved
07/01014/FUL	Retrospective application to retain land remodelling and proposed raising of existing ground levels at south west corner of site	Approved
08/01219/CU	Change of use to replace 17 touring pitches with 13 timber holiday chalets	Approved

4.0 Consultation Responses

- 4.1 The following responses have been received from statutory consultees:

Statutory Consultee	Response
Over Kellet Parish Council	There is a proliferation of sites of this kind in the area. Many of them have similar restrictions on their tenancy agreements. They can see no reason why the terms of the consent should be relaxed. If permission is granted for a relaxation it is likely to be used as a precedent by other similar businesses.
County Council highways	No observations to make on this proposal.
Environmental Health	If the accommodation consists of chalets, rather than caravans with wooden cladding, no site licence is needed. However for a caravan site they would comment as follows: Condition 4 - is a standard condition imposed to make it clear that the accommodation is for holiday purposes only. Condition 5 - the eight week consecutive use restriction is frequently used on static caravan sites to prevent permanent use over long periods in the open season. Condition 6 - is standard on all holiday sites, to stipulate the open season. Condition 7 - Environmental Health would always expect that static holiday sites keep

	an up to date record of the home addresses of any private owners of caravans on the site (this is appropriate for privately owned vans, not hire fleet caravans).
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5.0 Neighbour Representations

5.1 No representations have been received from members of the public.

6.0 Principal Development Plan Policies

6.1 Policy ER6 of the Core Strategy addresses tourism related issues. It specifically refers to the need to monitor the availability and quality of the District's stock of visitor accommodation and provide new accommodation where necessary.

6.2 Of the "saved" policies in the Lancaster District Local Plan, the following are relevant:

- TO8, which allows extended seasons for caravan sites (and by implication chalet sites as well) where the proposal would have no significant impact on its surroundings or on nature conservation interests, and a programme of on-site improvements is agreed and implemented. It also requires that caravans should remain in holiday use and are not used for permanent occupation, and that the site should remain closed for a period of six weeks between 1 January and 31 March each year.
- E4, which requires that development within the countryside should be in scale and keeping with its character, is appropriate to its surroundings, would not have an adverse effect on nature conservation or geological interests, and makes satisfactory arrangements for access, servicing and cycle parking.

7.0 Comment and Analysis

7.1 It should be acknowledged at the outset that there is a misprint in condition 6, which refers to caravans when in this particular case it should refer to chalets. This is a standard condition used by the Council; in retrospect, its wording should have been altered to reflect the circumstances of this particular site. However this would not meet the applicants' objection, which is that the holiday season permitted is too short.

7.2 The applicants' agents argue in their letter that conditions 4, 5 and 6 are unduly restrictive and put the business at a commercial disadvantage, particularly in relation to tourist related developments like that at Water's Edge on the north side of Carnforth.

7.3 The reason for restricting the occupation period is to ensure that caravans and chalets are used as holiday accommodation only. This can be difficult to monitor on a day to day basis. A "close season" during which none of them should be occupied is particularly useful as it provides an opportunity to confirm that the units are being used in the manner intended.

7.4 One issue which could be considered is whether the chalets are there primarily for the use of those people using the fishing lake or for general holiday visitors. If the former is the case, there is a case for a form of control different from that used for caravan and chalet parks elsewhere in the district.

7.5 However this is not the case put forward on behalf of the applicants. It is argued that permission should be granted for general occupation because it has been allowed elsewhere, in other parts of the country. This is not of itself sufficient to justify a relaxation of the City Council's normal policies for sites of this kind. In fact the terms of the existing consent are already more generous than those set out in policy TO8 of the Lancaster District Local Plan, in that they only require a four week closure period rather than a six week one.

8.0 Conclusions

8.1 While a good case can be made for varying the terms of condition 6 to refer to chalets, and for amending condition 7 to accept a computer based register in place of a manual bound one, this is not what the applicants are seeking. It is therefore recommended that permission should be refused.

Recommendation

That **PLANNING PERMISSION BE REFUSED** for the following reasons:

1. Allowing year round use of the accommodation would be contrary to "saved" policy TO8 of the Lancaster District Local Plan in that it would be difficult to ensure that it was used for holiday purposes only.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

1. Letter from the applicants' agents setting out the reasons why they consider that the conditions attached to the existing planning permission are inappropriate.
2. Appeal Decision letter dated 28 November 2007 - period of use of caravans: Craggwood caravan Park, Gordon Lane, Ramshaw, Bishop Auckland, Co Durham.
3. Appeal decision letter dated 2 September 2008 - six holiday lodges in woodland: Studford Farm, High Street, Sproxton, North Yorkshire.