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TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1995

FULL PLANNING APPLICATION

PERMISSION

Applicant Mr M Clare
Boggard Farm Boggard Lane
Charlesworth
Agent Peter Lead
Daneside Country Park
Somerford
CW12 4SL

Application no. **HPK/2003/0470**

Registered on **11/06/2003**

Determined on **05/08/2003**

High Peak Borough Council hereby **PERMIT** this application for **FULL PLANNING PERMISSION** for

EXTENSION OF PERMITTED SEASON FOR 8 STATIC CARAVANS FROM 1 MARCH TO 30 OCTOBER TO 1 MARCH TO 16 JANUARY ON APPLICATION HPK/2002/0884 at Bank Bottom Caravan Park Boggard Lane Charlesworth Glossop

in accordance with the submitted application, details and accompanying plans listed below subject to the following conditions and reasons:-

Conditions

1. The development to which this permission relates must be begun not later than the expiration of five years from the date of this permission unless some other specific period has been indicated in other conditions given.
2. The static caravans hereby permitted to be occupied between 1 March and 14 January in the following year must not be occupied for more than 28 days consecutively by any one occupier..

Reasons

1. The timelimit condition is imposed in order to comply with the requirements of sections 91, 92, 93 and 56 of the Town and Country Planning Act 1990.

G J Roscoe

Head of Regeneration.

High Peak Borough Council Policy and Regeneration, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel: 0845 129 77 77 Fax: 01457 860290 E-mail: Developmentcontrol@highpeak.gov.uk

Mr Henry.
16 weeks.

In order for the Local Planning Authority to retain control over future developments at the site in the interests of amenity.

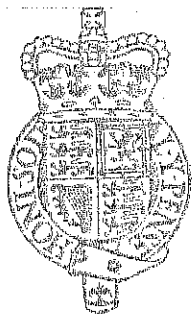
Plans

The plans to which this Notice refers are listed below:

Site Plan

.....
G J Roscoe
Head of Regeneration.

High Peak Borough Council Policy and Regeneration, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel: 0845 129 77 77 Fax: 01457 860290 E-mail: Developmentcontrol@highpeak.gov.uk



Appeal Decision

Site visit made on 26 April 2004

by **Anthony Thickett BA(Hons) BTP MRTPI DipRSA**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

12 MAY 2004

Appeal Ref: APP/H1033/A/04/1138026

Bankbottom Farm Caravan Park, Boggard Lane, Charlesworth, Glossop, Derbyshire, SK13 5HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mark Clare against the decision of High Peak Borough Council.
- The application (Ref. HPK/2003/0470), dated 28 May 2003, was granted planning permission by the Council on 5 August 2003 subject to conditions.
- The development permitted is the extension of the permitted season for 8 static caravans from 1 March to 30 October to 1 March to 16 January on application HPK/2002/0884.
- The condition in dispute is No. 2 which states that:
‘The static caravans hereby permitted to be occupied between 1 March and 14 January in the following year must not be occupied for more than 28 days by any one occupier’.
- The reason given for the condition is:
‘In order for the Local Planning Authority to retain control over future developments at the site in the interests of amenity’.

Summary of Decision: The appeal is allowed and the planning permission varied.

Procedural Matters

1. The description of the development permitted set out above is that given on the decision notice issued by the Council. The appellant indicates on the appeal form that the description of development has not changed from that given on the application form. However, on the application form the end date for the season is 16 December and there is no reference to an earlier application. In addition, the date of 14 January in condition 2 contradicts that given in the description of the development permitted in the decision notice.
2. The parties' views were sought with regard to the above. The Council state that the application form submitted to them gives an end date of 16 January and that the date of 14 January in condition 2 *‘was probably a typographical error’*. Both parties are content that I determine this appeal on the basis of the development permitted set out in the decision notice and I shall proceed on that basis.

Main Issue

3. I consider the main issue in this case to be the whether the removal of condition 2 of planning permission HPK/2003/0470 would conflict with national and local policies designed to protect the countryside.

Planning Policy

4. The development plan for the area includes the High Peak Local Plan 1998. The site lies in the open countryside outside a built up area and is in the Green Belt. Policy GD.4 states

that in the countryside permission will only be granted for development appropriate to a rural area. Tourist facilities are listed in Policy OC.1 as one of the types of development which may be permissible in the countryside. The general presumption against inappropriate development in the Green Belt is set out in policy GD.5. The site also lies in a Special Landscape Area wherein under Policies GD.6 and OC.3 regard is to be given to the protection of its special landscape quality and character. Policies T.3 and T.4 relate to tourist accommodation, touring caravan and campsites and both state that conditions will be imposed to prevent permanent occupation of holiday accommodation.

5. The above aims are carried forward by Policies OC1, OC2, OC3, LT12 and LT13 of the High Peak Local Plan, Revised Deposit Draft January 2003. Nothing has been submitted in this case to indicate the stage reached by the emerging Local Plan in its progress towards adoption or to show that the policies relevant to this appeal are not subject to objection. I shall, therefore, in light of the advice in paragraph 48 of Planning Policy Guidance Note 1, General Policy and Principles (PPG1) afford the emerging plan limited weight in this case.
6. Advice regarding tourism and development in the countryside can be found in Planning Policy Guidance Note 7, The Countryside-Environmental Quality and Economic and Social Development (PPG7) and Planning Policy Guidance Note 21, Tourism (PPG21). Also relevant is Circular 11/95 'The Use of Conditions in Planning Permissions'.

Reasons

7. There is no dispute that there have been caravans at Bankbottom Farm for around 50 years. The lawfulness of the use is confirmed by the issue by the Council on 25 March 2003 of a Certificate of Lawful Use or Development. The use described as lawful by the certificate is *'Use as a holiday caravan park for 8 static holiday caravans between 1st March and 30th October every year and one permanently residential static caravan'*. The planning permission subject to this appeal in effect extends the season by granting permission for the use of the site between 1 March and 16 January. This permission stands apart from the Certificate of Lawful Use or Development and the Council cannot rely on the description of development in the Certificate to ensure holiday occupation outside the dates set out in the Certificate.
8. The site lies in the open countryside and the Green Belt. It is common ground that in such areas national and local policy resist residential development unless it is essential to meet the needs of agriculture or other activities appropriate to a rural area. It is also common ground that in order to prevent permanent residential occupation, which would be contrary to national and local policy, a condition is required to control the occupancy of the caravans. I do not consider that Condition 2 of planning permission HPK/2003/0470 achieves this.
9. The condition does not prevent any one occupier living in a caravan for 28 days, spending a day away and then returning for another 28 day period of occupation. It could be argued that anyone using one of the 8 caravans as permanent accommodation would only need to spend a day away in any 28 day period to comply with the condition. Although I have assumed that a break of one day would be sufficient the condition is not clear in this regard. In addition, in setting an end date of 14 January the condition conflicts with the description of the development permitted. Whilst it would go too far to say that it nullifies the benefit of the permission, it introduces an element of confusion and leaves the appellant unsure as to what he is permitted to do.

10. To my mind the condition is unnecessary, in that it does not do the job it is meant to do, it is imprecise and it contradicts the permission to which it is attached. In addition, the reason is vague and conflicts with the advice in paragraph 10 of Circular 11/95. Insofar as the condition does not prevent permanent residential accommodation, I conclude that its removal would not conflict with national and local policies to protect the countryside. I shall therefore, allow the appeal but in light of the site's location in the countryside and the Green Belt, I shall substitute the condition with one restricting occupancy along the lines suggested in Circular 11/95 and PPG21.
11. In reaching this conclusion, I have considered the unilateral obligation submitted by the appellant. Whilst this seeks to achieve the same end, I am mindful of the advice in Planning Policy Guidance Note 1, General Policy and Principles (PPG1) and Circular 11/95 that conditions should be used in preference to obligations.

Other matters

12. Local residents are concerned that the removal of the condition would lead to the caravans being occupied permanently and increase traffic along Boggard Lane. The lane is a narrow unmade road unsuitable for large numbers of vehicles. However, the condition I shall impose is designed to ensure that the caravans are not occupied as permanent dwellings and I do not consider that it should result in any additional traffic using the lane.

Conclusions

13. For the reasons given above and having regard to all other matters raised, I consider that the appeal should succeed. I shall vary the planning permission by deleting the disputed conditions and substituting another.

Formal Decision

14. I allow the appeal and vary the planning permission Ref. HPK/2003/0470 for the extension of the permitted season for 8 static caravans from 1 March to 30 October to 1 March to 16 January on application HPK/2002/0884 at Bankbottom Farm Caravan Park, Boggard Lane, Charlesworth, Derbyshire, SK13 5HL granted on 5 August 2003 by High Peak Borough Council, deleting condition 2 and substituting therefor the following condition:
 - 2) The caravans subject to this permission shall be used as holiday accommodation only.

A. Thickett

Inspector