

# TOZERS

## APPEAL STATEMENT

**SECTION 78 APPEAL AGAINST CONDITION 4 OF THE PERMISSION GRANTED BY HIGH PEAK BOROUGH COUNCIL FOR EXTENSION OF HOLIDAY SEASON FROM 11 MONTHS A YEAR TO 12 MONTHS A YEAR FOR 8 STATIC CARAVANS (LODGES) ON APPLICATION HPK/2024/0349**

|                     |                                                                                     |
|---------------------|-------------------------------------------------------------------------------------|
| <b>APPELLANT:</b>   | <b>MR M CLARE</b>                                                                   |
| <b>APPEAL SITE:</b> | <b>LODGE FARM CARAVAN SITE, BOGGARD LANE,<br/>CHARLESWORTH, DERBYSHIRE SK13 5HL</b> |
| <b>LPA:</b>         | <b>HIGH PEAK BOROUGH COUNCIL</b>                                                    |
| <b>LPA REF:</b>     | <b>HPK/2024/0349</b>                                                                |

## **1. INTRODUCTION**

1.1. The Appellant makes this appeal under section 78 of the Town and Country Planning Act 1990 (as amended) ("1990 Act") against condition 4 of the permission issued by High Peak Borough Council (the "LPA") for extension of holiday season from 11 months a year to 12 months a year for 8 static caravans (lodges) on application HPK/2024/0349.

1.2. This statement forms the Appellant's grounds of appeal.

1.3. In addition to this statement, the following documents have been submitted with this appeal:

1.3.1. Planning application form;

1.3.2. Location Plan;

1.3.3. Site Plan;

1.3.4. Planning Statement;

1.3.5. Certificate of Lawfulness HPK/2002/0884;

1.3.6. Decision notice HPK/2011/0587;

1.3.7. Support letter for Charlesworth Lodges;

1.3.8. Appeal decision APP/H1033/A/04/1138026;

1.3.9. Email to the LPA;

1.3.10. Annex B of the Good Practice Guide on Planning for Tourism;

1.3.11. Appeal decision APP/P2365/A/11/2146532;

1.3.12. Appeal decision APP/P2365/A/08/2082079;

1.3.13. Decision notice for HPK/2024/0349; and

1.3.14. Officer's report for HPK/2024/0349.

## **2. APPEAL SITE**

- 2.1. The Appeal Site is located off Boggard Lane in the village of Charlesworth and is shown edged red on the location plan submitted with the application (a copy of which has been enclosed with this appeal).
- 2.2. It is a holiday caravan park consisting of 8 static caravans (lodges) which are occupied for holiday purposes for 11 months of the year between 3 February in one year to 3 January in the following year.
- 2.3. It is located within the Liverpool, Manchester and West Yorks Green Belt but is not located within any AONB, SSSI, SPA, SAC, or Ramsar Site.
- 2.4. For flood risk purposes, the Application Site is located within Flood Zone 1 and has a low probability of flooding from rivers and sea.

### 3. PLANNING HISTORY OF THE APPEAL SITE

- 3.1. The planning history for the Appeal Site is as follows:

| Planning Reference | Description                                                                                                                                                                      | Decision | Date of Decision |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------|
| HPK/0003/2059      | Construction of septic tank and other facilities to improve site amenities                                                                                                       | Granted  | 17/11/1992       |
| HPK/0003/2555      | Change of use of Land to Static Holiday Caravan Park                                                                                                                             | Refused  | 08/07/1993       |
| HPK/2002/0884      | Use as a holiday caravan park for 8 static holiday caravans between 1 <sup>st</sup> March and 30 <sup>th</sup> October every year and one permanently residential static caravan | Granted  | 25/03/2003       |
| HPK/2003/0470      | Extension of season for 8 static caravans from 1 march to 30 October to 1 March to 16 January on application HPK/2002/0884                                                       | Granted  | 05/08/2003       |

|                        |                                                                                                                                                                          |         |            |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------|
| APP/H1033/A/04/1138026 | Appeal of Condition 2 of permission HPK/2003/0470                                                                                                                        | Allowed | 12/04/2004 |
| HPK/2004/0643          | Retrospective Application for layout and ancillary works                                                                                                                 | Refused | 31/08/2004 |
| HPK/2005/0010          | Resubmission of application HPK/2004/0643 for layout and ancillary works                                                                                                 | Granted | 22/02/2005 |
| HPK/2011/0587          | Proposed extension to holiday season to enable the 8 static caravans (Lodges) to be used for holiday purposes from 3 February until the 3 January in any 12 month period | Granted | 06/12/2011 |

3.2. The extant planning permissions for the Appeal Site are Certificate HPK/2002/0884 and Planning Permission HPK/2011/0587. A copy of this Certificate and Planning Permission are submitted with this application.

3.3. Certificate HPK/2002/0884 permitted the Appeal Site to be used as a caravan site for the stationing of 8 static caravans for holiday use between 1<sup>st</sup> March and 30<sup>th</sup> October each year and 1 residential mobile home (which is located outside of the red line area shown on the Location Plan). The use of the 8 holiday static caravans was extended under planning permission HPK/2011/0587 to permit said caravans to be used for holiday purposes between 3 February and 3 January in any 12 month period (i.e., 11 month holiday use).

#### **4. THE APPEAL**

4.1. On 13 August 2024, the Appellant applied to the LPA (application number HPK/2024/0349) for planning permission to extend the holiday season for the Appeal Site to 12 month holiday use. A copy of this application has been submitted with the appeal.

4.2. During the course of that application, the LPA invited the Appellant to set out what conditions/restrictions he considered could be put in place by the LPA which met the tests of the National Planning Policy Framework (“NPPF”) to prevent the caravans from being permanently residentially occupied. A copy of the Appellant’s response is

submitted with this appeal together with the attachments referred to within that response.

4.3. This response set out that permanent residential occupancy could be prevented by the imposition of two conditions. The first restricting occupancy of the caravans to holiday use only and prohibiting occupancy as a person's sole or main place of residence and the second requiring the owner and operator of the site to maintain a register of the names of all owners/occupiers of the individual caravans and their main home addresses, and to make that register available to the LPA at all times.

4.4. Planning permission was granted by the LPA on 28 November 2024 subject to 5 conditions (two of which were the conditions proposed by the Appellant, as set out above). A copy of the decision notice and officer's report has been submitted with this appeal.

4.5. It is the fourth condition that the Appellant objects to which limits the occupancy of the caravans by any single person or group of persons to no more than 28 consecutive days and 28 days in any one calendar year.

4.6. Condition 4 states:

*"The caravans (lodges) and holiday site subject to this permission shall not be occupied by any single person or group of persons for more than 28 consecutive days and shall not be occupied by any single person or group of persons for more than 28 days in any one calendar year"*

4.7. The reason justifying this condition is stated to be as follows:

*"In order to protect the character of the open countryside and ensure that the use of the land is commensurate with its rural and Green Belt location in line with Local Plan Policies EQ3 and EQ4 and relevant paragraphs under Chapter 13 of the NPPF"*

4.8. The officer report (a copy of which has been enclosed with this appeal) goes further to explain that the LPA considered condition 4 to be necessary to prevent the site from being occupied on a permanent residential basis.

4.9. It is considered that:

4.9.1. condition 4 fails to meet the 6 tests for planning conditions set out in paragraph 57 of the NPPF as it is neither necessary, reasonable nor enforceable; and

4.9.2. that there is no policy support for this condition.

4.10. It is contended that the planning application would not have been refused if this condition had not been imposed and should therefore be removed.

## **5. GROUNDS OF APPEAL**

### Condition 4 does not comply with the 6 tests in the NPPF

5.1. Paragraph 57 of the NPPF states:

*“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.”*

5.2. This is supported by the Planning Practice Guidance which provides that a condition should not be used where it fails to meet these 6 tests.

5.3. The Appellant contends that condition 4 is neither necessary, reasonable nor enforceable.

5.4. As stated above, it is clear from the officer’s report that the purpose and intention of imposing condition 4 was to prevent the caravans from being occupied on a permanent residential basis.

5.5. However, this is already prevented by condition 3 of permission HPK/2024/0349.

5.6. Condition 3 of the permission restricts occupation of the caravans to holiday use only and clearly prohibits the use of the caravans as a person’s sole or main residence. It states as follows:

*“The caravans subject to this permission shall be occupied for holiday purposes only and shall not be occupied as a person(s) sole or main place of residence”*

5.7. If any of the caravans were occupied on a permanent residential basis there would be a breach of this condition 3 which the Council could enforce against.

5.8. Further, enforcement of condition 3 is supported by condition 5 which requires the site owner to maintain a register of the names and addresses of the occupiers/owners of the caravans and their main home addresses. This enables the Council to check that condition 3 is being complied with by checking the register to ensure that all occupiers/owners of the caravans reside elsewhere. If the register was incomplete or had not been kept, then the LPA could either undertake a site visit or serve a planning contravention notice on the owner to check compliance with condition 3. Where condition 3 was not being complied with (i.e., where the caravans were being residentially occupied), the LPA would be able to use its enforcement powers under the 1990 Act where it was expedient to do so to require compliance.

5.9. Condition 3 is clearly capable of preventing residential use of the Appeal Site and, in conjunction with condition 5, is enforceable. As such, it is not necessary for any further conditions to be imposed for the purpose of restricting residential use.

5.10. This is supported by appeal decision, APP/H1033/A/04/1138026, granted in respect of the Appeal Site (a copy of which is enclosed with this appeal). This appeal concerned an objection to condition 2 of permission HPK/2003/0470 which prohibited any static caravan from being occupied for more than 28 consecutive days by any one occupier. The appeal was granted and condition 2 was removed from permission HPK/2003/0470 on the basis that it was too imprecise and did not prevent residential use. In removing this condition 2, it was open to the Planning Inspector to replace it with a condition that was sufficiently precise and restricted occupancy of the caravans by any one occupier to no more than 28 days between 1 March and 14 January to prevent residential use, however, the Planning Inspector did not do this. Instead, the Planning Inspector considered that all that was necessary to prevent residential occupation of the caravans was a condition restricting the use of the caravans to holiday accommodation only.

5.11. Therefore, that is all that is necessary for this permission too.

5.12. Condition 4 imposes an unnecessary control which is in contradiction of paragraph 001 of the Planning Practice Guidance on the 'Use of Conditions' which states:

*"It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls"* Emphasis added.

- 5.13. In addition to being unnecessary, condition 4 is also unenforceable.
- 5.14. The LPA have no way of checking whether any single person has occupied a caravan for less or more than 28 days in a calendar year. Whilst condition 5 requires a register to be maintained of the occupiers/owners of the caravans, that register is only required to include their names and main home addresses. There is no requirement for the register to record the dates on which the occupier/owner occupies the caravan during the year. Short of visiting the park every single day and checking who is in occupation or serving regular planning contravention notices on the Appellant (which would be very intrusive on both the occupants of the caravans and on the Appellant's time), the LPA would not know if someone had occupied a caravan for more than 28 days in a calendar year in breach of condition 4 to be able to enforce. The only time the LPA is likely to be aware of the breach, and able to enforce the condition, is if a person was residentially occupying the caravan. In that case condition 3 would be breached and there would be no need for this condition 4. Outside of residential occupation, it will be extremely difficult if not impossible for the LPA to enforce the 28 day occupation rule.
- 5.15. If the Local Planning Authority cannot effectively enforce condition 4 it does not meet the 6 tests and should not have been imposed.
- 5.16. Further, if this condition were to remain, it would also likely restrict the Appellant's business model for the park to short-term holiday lets only and prevent the sale of the lodges on the Appeal Site to individual owners with a licence agreement entitling said lodge owner to site the lodge on the Appeal Site and occupy it for holiday purposes only which, it should be noted, is how numerous holiday parks across England operate. Condition 4 affects the viability of such a business model as it limits the attractiveness of the lodges to prospective purchasers who would only be able to holiday in their lodge for 28 days per calendar year.
- 5.17. The Appellant contends that this is an unfair and unreasonable restriction on bona fide holiday makers especially where there are no compelling or clear-cut reasons to support it.

The grant of permission HPK/2024/0346 without condition 4 is supported by the Local Plan

- 5.18. The High Peak Local Plan (adopted April 2016) seeks to promote, support and expand the tourism offer within the High Peak district specifically through policies

E6 (Promoting Peak District Tourism and Culture) and E7 (Chalet Accommodation, Caravan and Camp Site Developments) and does not refer or require that a condition be added to permissions for holiday use restricting such use to 28 days per occupant per calendar year.

5.19. The application form and planning statement submitted for permission HPK/2024/0349 clearly stated that permission was being sought for 12 month holiday use of the 8 lodges and this was acknowledged in the officer's report. Therefore, in considering and granting the permission, the LPA have confirmed that it is acceptable for the development to be used all year round for holiday use.

5.20. Providing the development is used for holiday purposes only, which is controlled by condition 3 (supported by condition 5), there is little to no difference in the development's impact whether it is occupied for holiday purposes by the same person for up to or more than 28 days in a calendar year. The impact of the development would be the same. As such, the removal of condition 4 would be supported by and is in accordance with the Local Plan.

## **6. CONCLUSION**

6.1. The Appellant contends that Condition 4 of permission HPK/2024/0349 in respect of the limitation restricting occupancy of the caravans to 28 consecutive days and 28 days in any one calendar year is:

6.1.1. unnecessary given the existence of conditions 3 and 5;

6.1.2. incapable of enforcement given the lack and/or intrusive methods to check compliance with the condition; and

6.1.3. unreasonable given the lack of a compelling or clear-cut reason for imposing such a restrictive limitation on bona fide holiday makers.

6.2. There is also no policy support for such a condition to be imposed in addition to conditions 3 and 5.

6.3. As such the permission would have been a valid, enforceable permission without the addition of Condition 4 so that it should be removed.

**TOZERS LLP**  
**For and on behalf of the Appellant, Mr M Clare**  
**MAY 2025**