

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 14/01261/FUL
OFFICER:	Julie Hayward
WARD:	Hawick and Hermitage
PROPOSAL:	Modification of condition No 3 of planning consent 02/00813/COU in respect of the occupancy period of the static caravans
SITE:	Riverview Holiday Park Mangerton Newcastleton
APPLICANT:	Mr Phil Kelly
AGENT:	Montgomery Forgan Associates

SITE DESCRIPTION

Riverview Caravan Park is situated to the south east of Newcastleton and accessed by minor roads from the B6357. The Liddel Water is to the west, the disused railway cuts through the eastern part of the park and Mangerton Farm is to the south. The caravan park comprises of approximately 16 timber style lodges and static caravans and there are some touring pitches. Access is from the minor public road and the holiday park is landscaped with trees and shrubs. A car parking area and sewage treatment plant are situated on the western boundary, separated from the river by trees and a field.

PROPOSED DEVELOPMENT

Full planning permission (02/00813/COU) was granted on 20th August 2002 for the change of use of land and part of a farm outbuilding to form a static caravan park comprising of 41 pitches. This was subject to the following condition (no.3):

“The caravans are to be used for holiday purposes only and not for permanent residential use, their occupation to be limited to 1 March to 31 January in any twelve month period.

Reason: Use for normal residential occupation would be contrary to the Council's policy on tourism and housing in the countryside.”

This planning application has been submitted to vary this condition. The agent has suggested the following form of words:

“All existing holiday caravans within the site shall be occupied for holiday use only and not as a main or sole residence or as temporary or permanent residential accommodation to the satisfaction of Scottish Borders Council as Planning Authority. The owners/operators of the park shall maintain an up to date register of the names and all owners and occupiers of individual caravans on the site and of their permanent home addresses and shall make this information available at all reasonable times to the Planning Authority.”

The application is presented to the Planning and Building Standards Committee as it constitutes a major development due to the site area.

PLANNING HISTORY

02/00813/COU: Change of use of land and part of farm outbuilding to form static caravan park. Approved 20th August 2002.

03/00288/FUL: Variation of condition on previous consent 02/00813/COU to allow installation of static caravan on Plot 17 for use as permanent residential accommodation. Approved 20th March 2003.

07/01470/FUL: Removal of condition restricting the occupancy period of caravans (02/00813/COU). Withdrawn 29th October 2007.

07/01472/FUL: Erection of maintenance and storage shed with hardstanding area. Approved 7th January 2008.

08/00410/FUL: Erection of storage buildings and timber decks to holiday units. Approved 14th April 2008.

08/00702/FUL: Erection of portable office building. Approved 24th December 2013.

09/01503/CLEU: Certificate of Lawful Use: that the occupation of caravans for holiday purposes, and not for permanent residential use, for up to 11 months in any 12 month period (1 March to 31 January) is lawful by virtue of planning permission 02/00813/COU. Refused 23rd December 2009. Appeal allowed 17th March 2010.

REPRESENTATION SUMMARY

There are no representations.

APPLICANTS' SUPPORTING INFORMATION

- Planning permission (02/00813/COU) was granted on 20th August 2002 for a change of use of land and part of a farm outbuilding to form a static caravan park on land at Mangerton Newcastleton. The holiday park is open for 11 months of the year in compliance with condition 3 of the planning permission and the existing caravan site licence, which requires a closure period in February each year.
- In 2009 a Certificate of Lawfulness was issued on appeal which certifies that the caravans can be lawfully used for holiday purposes for up to 11 months (1st March to 31st January) by virtue of conditions attached to the planning permission.
- State it is recognised that the tourism sector plays an important economic role in the Scottish Borders and the applicant seeks permission to vary condition 3 of the planning permission to allow the existing 36 holiday caravans to be used on an all year basis. They request that condition 3 is varied on that basis, as set out above.
- Such a condition would ensure that the caravans are used only for holiday accommodation and would allow the applicant the additional flexibility of

being able to provide accommodation to holiday makers throughout the year. The amendment to condition 3 would still achieve the aim of national and local policies which support tourism related developments in rural areas.

- Lilliardsedge Holiday Park recently obtained planning permission for year round holiday occupancy (13/00241/FUL), which sets a reasonable precedent.
- The Scottish Government has an aspiration to grow tourism in Scotland by 50% by 2016 and increase the amount of tourist accommodation by 20% during this period. The proposed variation to the holiday occupancy condition would aid a successful and established local business and contribute towards the Scottish Government and Scottish Borders Council tourism targets.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections.

Environmental Health: The applicant wishes to amend the wording of a condition to use static caravans for tourist accommodation. Given the changes proposed there will be an increase in the public use of the private water supply that serves the holiday park. I note that the supply was tested this year by the Council and passed. However with the proposed changes to the supply may require a risk assessment.

Flood Protection Officer: The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site may be at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

There is not a significant risk of flooding at this site, only a small section of the north west corner is anticipated to be flooded during a 1 in 200 year flood event. I would state that as there is no significant flood risk to the site at present, it would be suitable to change the condition to allow for caravans to be used on a year round basis for holiday usage. Therefore I would have no objections on the grounds of flooding.

Archaeology Officer: There are no implications.

Statutory Consultees

Newcastleton Community Council: No response.

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Policy 15: Water and Flooding

Consolidated Scottish Borders Local Plan 2011

Policy G4: Flooding

Policy BE8: Caravan and Camping Sites

Policy H2: Protection of Residential Amenity

Policy D1: Business, Tourism and Leisure Development in the Countryside

Proposed Local Development Plan 2013

Policy ED7: Business, Tourism and Leisure Development in the Countryside

Policy ED8: Caravan and Camping Sites

Policy HD3 Protection of Residential Amenity

Policy IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

None

KEY PLANNING ISSUES:

Whether the condition can be varied to achieve the applicant's aim of more flexibility by being able to provide holiday accommodation throughout the year whilst achieving the Council's aim of ensuring that the static caravans remain available for holiday makers and do not become residential units, which would be contrary to the Council's housing in the countryside policies.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy BE8 of the Scottish Borders Consolidated Local Plan Adopted 2011 supports caravan and camping facilities in locations that are environmentally acceptable and that fit with wider tourism, economic and regeneration objectives. Policy D1 encourages tourism development in the countryside that is in accordance with the Scottish Borders Tourism Strategy.

This is an established static caravan park with a range of mobile homes and lodges in private ownership and available for sale. Of the 41 pitches granted planning permission 16 have static caravans or lodges sited on them and there are also some touring pitches available for caravans and motor homes.

Planning permission (03/00288/FUL) was originally granted for the static caravan park in 2002 with a condition that the caravans are to be used for holiday purposes only and not for permanent residential use, their occupation to be limited to 1 March to 31 January in any twelve month period. The proposal at that time complied with the Structure Plan and Local Plan policies for tourism in the countryside. The condition was to ensure that the static caravans are retained as holiday accommodation and not used as permanent residential units, as this would be contrary to the Council's housing in the countryside policies.

This condition was varied for plot 17 in 2003 to allow the static caravan on this plot to be use as permanent residential accommodation. The original plan had been for the steading building to be converted into accommodation for a warden but the applicant then decided to use one of the static pitches. This approval was subject to a

condition restricting the occupancy of the static caravan to a person employed in connection with the holiday park or any dependants.

An application for a Certificate of Lawful Existing Use (09/01503/CLEU) was submitted in 2009 that sought to establish that the occupation of the static caravans for holiday purposes, and not for permanent residential use, for up to 11 months in any 12 month period (1st March to 31st January) was lawful by virtue of planning permission 02/00813/COU. This application was the result of an enforcement investigation by the Council into an alleged breach of planning control following complaints made by members of the public that the caravans were being used for non-holiday, residential purposes.

The main issue in respect of the application was the interpretation of condition 3 of the planning permission 02/00813/FUL and in particular, the term “holiday purposes” and whether the operation of the caravan park was in breach of this condition.

The Council considered “holiday purposes” to mean no single unit shall be occupied for a continuous period of three months or more by the same individual or family and no unit shall be occupied in any calendar year (31 March to 1 January) for a cumulative period of five months or more by the same individual or family. The Council took the view that if a person or group were to occupy the caravans for 11 months consecutively and continually, that would not amount to “holiday purposes” and to do so failed to comply with the condition, as holiday occupation is not a continuous use.

The applicant, Mr Phil Kelly, was of the view that any individual or group could use the caravans for holiday purposes for up to 11 months of the year (1 March to 31 January) but not in February or for permanent residential use but there was no restriction about continuous occupation or cumulative occupation by any person.

The Council concluded that the information submitted with the application did not demonstrate conclusively that the way the static caravans were occupied at that time met the terms of the condition, as interpreted by the Council, or sufficient time had elapsed to prevent the Council pursuing enforcement action. The application was therefore refused.

The applicant appealed this decision and the subsequent appeal was allowed by the Reporter, granting a Certificate of Lawful Existing Use. The Reporter concluded that there was insufficient evidence had been submitted to substantiate the Council’s claims that there had been a breach of the condition. The Reporter allowed the appeal and issued the Certificate of Lawful Existing Use confirming that the use of the caravan park site was lawful by virtue of planning permission 02/00813/FUL, and the attached condition 3.

The agent advises that the reason for seeking a variation in this condition is to allow flexibility in terms of occupation to provide accommodation to holiday makers throughout the year. The condition proposed by the agent seeks to ensure that the holiday status of the park remains unchanged.

The Council has previously allowed modifications to conditions on caravan parks within the Borders to remove the clause requiring a month’s break in occupation, for example, Lilliardsedge Caravan Park Jedburgh and Deanbrae Holiday Park Cavers Hawick, and so the proposed variation of condition 3 would be in keeping with other holiday parks in the Borders that have less restrictive occupancy conditions, which is a reasonable and fair approach.

The proposed condition would enable effective control of the development to be achieved, whilst allowing the site operator the additional flexibility of being able to provide accommodation to genuine holidaymakers throughout the year, contributing to the variety of accommodation available in the Borders. The modified condition would also allow monitoring of the caravan park to take place, which has not been possible previously, to ensure compliance with the condition. There is therefore no sound planning reason to withhold permission.

Flooding

Policy 15 of the SESplan states that Local Development Plans should avoid any new development in areas at medium to high flood risk. Policy G4 of the Local Plan refers to developments where there is an identified flood risk; developments will not be permitted if it would be at significant risk of flooding or would materially increase the risk of flooding elsewhere.

The Council's Flood Protection Officer advises that there is not a significant risk of flooding at this site; only a small section of the north west corner is anticipated to be flooded during a 1 in 200 year flood event. He advises that as there is no significant flood risk to the site at present, it would be suitable to change the condition to allow for caravans to be used on a year round basis for holiday usage and has no objections.

Impact on Residential Amenities

Policy H2 of the Local Plan states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The site is situated in a rural location outwith Newcastleton. Mangerton Farmhouse and Mangerton Mill are situated to the south of the caravan site. It is considered that the year round use of the static caravans for holiday purposes would not affect the residential amenities of occupants of the units within the site or of nearby residential properties.

CONCLUSION

There have been concerns in the past that the static caravans were being occupied as permanent residential units. However, the proposed variation of the occupancy condition would achieve the applicant's aim of more flexibility by being able to provide holiday accommodation throughout the year whilst achieving the Council's aim of ensuring that the static caravans remain available for holiday makers and do not become permanent residential units, which would be contrary to the Council's housing in the countryside and tourism policies. The varied condition would allow the caravan park to be monitored to ensure compliance with the condition and policy BE8 of the Scottish Borders Consolidated Local Plan Adopted 2011.

The proposed variation in the occupancy condition would not harm the residential amenities of occupants of nearby houses and the site is not at a significant risk if flooding, in compliance with policies H2 and G4.

RECOMMENDATION BY SERVICE DIRECTOR REGULATORY SERVICES:

I recommend the application is approved subject to the following conditions and informatives:

1. This consent relates only to the change of use of land to form a static caravan park within the red line indicated on approved drawing H395/03 Rev "A" on application 02/00813/COU, the development of the remainder of the site to be the subject of a further application for planning permission.
Reason: To enable the Council to maintain effective control of the development and in recognition of the potential flood risk on the lower parts of the site.
2. The placement of caravans on stances 21-41 not to occur until the completion of development to the satisfaction of the Council on stances 5-20.
Reason: To secure the orderly development of the site and minimise visual impact on the landscape.
3. The holiday lodges and caravans within the site shall be occupied for holiday use only and shall not be used as a person's sole or main residence or as temporary or permanent residential accommodation. The owners/operators of the holiday park shall maintain an up-to-date register of the names of all owners and occupiers of the individual caravans and lodges on the site and their main home addresses, and shall make this information available for inspection by an authorised officer of the Planning Authority at all reasonable times.
Reason: The accommodation on the site is not designed for permanent occupation and permanent residential use would be contrary to the Council's housing in the countryside policies.
4. The existing trees on the site to be retained to the satisfaction of the Planning Authority.
Reason: To safeguard the visual amenity of the area.
5. The caravan stances to be formed no higher than 50mm above the existing highest ground level occupied by each individual stance, but preferably lower.
Reason: To safeguard the visual amenity of the area.
6. Further landscaping proposals to be submitted for the approval of the Planning Authority in relation to the visitor parking area at the northern boundary of the site.
Reason: To safeguard the visual amenity of the area.
7. In the event of the railway being reinstated upon the track bed of the former Waverley Line, the development to be adjusted in accordance with the provisions of approved plan ref. H395/05 on application 02/00813/COU subject to further agreement with the Planning Authority on additional planting and revision to stances and parking areas that may be considered necessary.
Reason: To accord with Development Plan policy on maintaining railway routes.
8. Further details of the following to be agreed with the Planning Authority before the development is commenced:
 - colour of caravans.
 - external lighting.

- materials to be used for roads, parking and other hard surfaces.
- sewage treatment works.
- alterations to the existing steading building.
- LPG tanks.
- playspace/recreational areas.

Reason: To secure the orderly development of the site and minimise visual impact on the landscape.

9. The existing passing places on the D38/3 public road to be cleared of vegetation and enlarged, and the accesses into the site to be formed, all to the specification of the Planning Authority before the first caravan is occupied.
Reason: In the interests of road safety.

10. The landscaping indicated on the approved drawings on application 02/00813/COU, including the woodland areas and augmentation of riverbank planting outwith the current application site, to be implemented during the first available planting season following commencement of development, and to be maintained in perpetuity to the satisfaction of the Planning Authority.
Reason: To safeguard the visual amenity of the area.

Informatives

The applicant should contact an Environmental Health Officer to discuss the need for a private water supply risk assessment.

The Council's Flood Protection Officer recommends that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. It would also be advisable for the applicant to develop an evacuation plan for the buildings during times of flood warning.

A number of flood protection products such as floodgates and air-vent covers are also commercially available and details of these can be found by calling Emergency Planning on 01835 825056 who may be able to offer discounts for the products.

DRAWING NUMBERS

5409/C/01 Location Plan

Approved by

Name	Designation	Signature
Brian Frater	Service Director Regulatory Services	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Julie Hayward	Principal Planning Officer

