

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	06/09/2018
Planning Development Manager authorisation:	AN	5/9/18
Admin checks / despatch completed	SB	19/09/18.

ML

Application: 16/01458/FUL **Town / Parish:** Great Bentley Parish Council

Applicant: Mrs Joan Harries

Address: Bentley Country Park Flag Hill Great Bentley

Development: Change of use of land to a holiday caravan park with associated offices and leisure facilities with use for 11 months from 1st March in any one year to 31st January the next year.

1. Town / Parish Council

Great Bentley Parish Council considered this application at its meeting on 2 March 2017. It resolved to object to the application on the grounds of the identified flood risk in this location.

2. Consultation Responses

Natural England NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

ECC SuDS Consultee No comments to make in respect of this application.

Environment Agency No objections provided caravans are for short term occupancy only and that the development will be safe for its lifetime.

Emergency Planner - Catherine Boyer-Besant No comments received

3. Planning History

92/00244/FUL	Variation of condition 3 of TEN/198/85 & conditions 1 & 2 of TEN/1158/86 to allow occupation from 1 March in any year to 31 January of following year for 155 mobile homes	Refused	28.04.1992
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95/00462/FUL	Variation of permitted occupancy periods for caravan/ mobile home park to allow occupation during the whole of the month of November in	Refused	13.06.1995
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	each year in addition to existing occupancy periods		
96/00293/FUL	Repositioning of boilers with new flue housing	Approved	10.04.1996
97/00797/FUL	Open framed platform with shiplap base	Approved	12.08.1997
97/00903/FUL	(23 Riverside, Bentley Country Park, Flag Hill, Great Bentley) Variation in occupancy condition to allow permanent year round occupation	Refused	16.09.1997
04/01626/FUL	Variation of Condition 3 of planning permission TEN/198/85 and Condition 2 of planning permission TEN/1158/86 to allow the holiday occupation of the caravans and chalets for the period commencing 1st March in any one year to the end of the first week in January in the following year.	Refused	29.09.2004
04/02333/FUL	Temporary removal of condition 3 of TEN/198/85 and condition 2 of TEN/1158/86 for a period of 1 year for 12 Kingfisher Lake	Refused	03.02.2005
06/00314/FUL	Variation of condition 3 of planning consent TEN/198/85 & condition 2 of planning consent TEN/1158/86 to allow occupation of caravans/chalets for the period commencing 1st March in any one year to 14th January of the following year.	Refused	01.06.2006
06/01414/FUL	Variation of condition 3 of planning consent TEN/198/85 & condition 2 of planning consent TEN/1158/86 to allow occupation of caravans/chalets for the period commencing 1st March in any one year to 3rd January of the following year.	Approved	09.11.2006
09/01044/FUL	Variation of Condition 03 of Planning Permission TEN/198/85 and Condition 02 of Planning Permission TEN/1158/86 to allow occupation of caravans/chalets for the period commencing 1st March in any one year to 3rd January of the following year.	Refused	12.01.2010

14/01348/FUL	Variation of condition 3 of planning permission TEN/198/85, removal of condition 1 of planning consent TEN/1158/86 and variation of condition 2 of planning permission TEN/1158/86 to allow residential occupation of caravans/chalets from 1st March in any one year to 3rd January the next.	Approved	21.04.2015
16/01458/FUL	Change of use of land to a holiday caravan park with associated offices and leisure facilities with use for 11 months from 1st March in any one year to 31st January the next year.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER18 Caravan and Chalet Parks

ER20 Occupancy Timescales

COM21 Light Pollution

COM22 Noise Pollution

COM23 General Pollution

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL3 Sustainable Design

PP11 Holiday Parks

PP13 The Rural Economy

PP1 New Retail Development

PPL4 Biodiversity and Geodiversity

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is located on the western side of Flag Hill and comprises a caravan park with associated facilities. The site is partially located in an area of high flood risk and forms part of the Coastal Protection Belt, as established in the saved local plan. The site is outside of the defined Settlement Development Boundary and is therefore considered to form part of the countryside. A small south-western part of the application site, but predominantly adjacent to the application site are areas designated as RAMSAR, Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI).

Proposal

The current occupancy period for this site is for a 10 month period from the 1st March in any one year to the 3rd January the next. This was granted under planning permission reference 14/01348/FUL.

The permission includes a condition stating that the caravans shall be occupied for holiday purposes only and shall not be occupied as person's sole or main place of residence.

This application seeks to extend the occupancy period to 11 months a year meaning that the site will be closed to occupants within the month of February.

The application has been in conjunction with a new section 106 agreement to remove wording relating to residential occupancy and replaced with occupancy concerning holiday purposes only.

Assessment

National/Local Policy

The NPPF (2018) recognises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development (paragraph 83). This includes support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Such support should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

This particular proposal does not expand the overall development footprint but provides a direct business benefit to the Park and its local area through the ability to operate over an extended season for the benefit of visitors to the area.

Saved Policy ER20 of the Tendring District Local Plan (2007) seeks to ensure that caravans and chalets are not used as residential dwellings, their occupation will only be permitted between 1st March in any one year and 14th January in the subsequent year (inclusive). Occupancy will be further restricted to the period 1st March to 31st October in any one year where the site:

- i) lacks the necessary and appropriate infrastructure and services for longer occupation; or
- ii) is located in an area of flood risk, or in the vicinity of a site designated for nature conservation.

As already mentioned this site is located within an area of flood risk and within a site designated for nature conservation. However the site does not lack the necessary and appropriate infrastructure and services for longer occupation.

Flood Risk

As the site is within a high flood risk area, a Flood Risk Assessment and Flood Warning Evacuation Plan (FWEP) have been submitted.

The EA has been consulted, and they have no objections to the proposal as the mobile homes are still being occupied on a holiday basis and therefore will continue to be classed as more vulnerable development.

The Council's Emergency Planners were heavily involved within the production of the existing FWEF, which was approved in 2015 as part of the discharged conditions for the 2014 permission. The submitted FWEF document has been revised but includes all the amendments previously requested by the Council's Emergency Planners (who have not provided any comments on the revised document). In view of the previous acceptability of the document, the development is considered to have a tolerable level of safety.

Previous Decisions/Adopted Policy

Nearby holiday parks - Oaklands Park, St Osyth/Seawick - were granted planning permissions for a seasonal occupancy period from 1st March to 14th February. Whilst saved policy ER20 describes the principles of establishing a definitive timescale for holiday occupancy its prime aim is of ensuring that holiday accommodation is not used as permanent residential accommodation.

This issue has been the subject of many applications and appeals. It is clear that both guidance documents and a variety of independent considerations on appeal have concluded there are sufficient controls available by way of planning condition or legal agreement to ensure that holiday occupancy of caravans and chalets can be maintained, even where the seasonal occupancy period is removed entirely and occupation can take place throughout the year.

A combination of both seasonal and holiday occupancy conditions/clauses has been found acceptable by Planning Inspectors in relation to planning appeals and such conditions/clauses are now used in response to planning applications. In addition, in order to further ensure that a caravan is not used as a person's only or main residence a condition/clause requiring the maintenance of a register of caravan occupiers and their home addresses will be applied.

The restrictions noted above are secured via the completed legal agreement and therefore do not need to be replicated as conditions.

In considering the above points, the absence of an objection of flood risk grounds and recent planning decisions/appeals (which is a material planning consideration), it is deemed that despite the requirements of the Council's saved Policy ER20 the proposal should be approved.

Ecology

Natural England has no objections to the proposal in respect of the impact upon Internationally/Nationally Designated Sites.

In this case visitor and winter bird surveys have been undertaken to inform the assessment of impacts from recreational disturbance to nearby designated sites. These reports, which Natural England consider adequate for assessing impacts in this case, include analysis of Wetland Bird Survey (WeBS) and Colchester Borough Council survey data which show that the Flag Creek area supports significant populations of a number of SPA birds.

At Bentley Park, the report concludes that there is likely to be one disturbance event every 5 hours and 40 minutes (in daytime) where the number of birds affected exceeds 1% of the total SPA wintering population of redshank, and one every 11 hours 20 minutes for Brent Geese. Natural England's advice is that, in terms of the Habitat Regulations, this degree of disturbance on this proportion of an SPA species does not represent a significant effect on the Colne Estuary SPA.

Other Considerations

ECC-SUDs have no comments to make in respect of the planning application.

Great Bentley Parish Council considered this application at its meeting on 2 March 2017. It resolved to object to the application on the grounds of the identified flood risk in this location. No further letters of representation have been received.

6. Recommendation

Approval with Legal Agreement

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The hereby approved development shall only be implemented in full accordance with the agreed Flood Warning and Evacuation Plan Version no. 1.3 (dated July 2016). The Flood Warning Evacuation Plan shall remain in force for the duration of the occupation period and shall remain a live document and be updated where required.

Reason - The site lies within flood zones 2 and 3 at high risk from flooding and a detailed evacuation plan is essential to safeguard occupiers of the development.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

There is a completed legal agreement that runs in conjunction with this planning permission.

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p>NO</p>