

7<sup>th</sup> December 2022

Vanity Farm Tenants Association  
Vanity Farm Camp  
Leysdown Road  
Leysdown  
Sheerness  
Kent  
ME12 4LN

FAO Planning:

**Planning statement**

Dear Sir or Madam,

Variation of condition 2 of permission SW/11/1608 to allow the use of the approved holiday park on a 12-month basis.

Please find the enclosed application seeking to partially vary condition 2 of the consent currently relating to this holiday park. The proposal seeks an extension of the open season of the site such that the park can be used at any time of the year for holiday purposes.

**The site will remain subject to the detailed requirements of the other restrictive occupancy criteria forming condition 2 which ensure it remains as a holiday park only.**

The application follows on from continued Government support of longer opening as a consequence of the impact of the coronavirus pandemic. Whilst the Council has a long-standing policy seeking closure of holiday parks for two months in winter even when there is no issue in terms of flood risk, this is considered to have been moved on by virtue of the Interim Planning Policy Statement for park home sites having been adopted as a material planning consideration in determining planning applications in 2020.

The key consideration for the application to allow owners full holiday enjoyment of the site all year round has been prompted by one particular event which has worried owners on the site, who do not wish to breach planning control, namely Britain's exit from the EU.

**This change to conditions is sought owing to a major change in the UK's status.**

Previously, a restriction on occupation was considered necessary and indeed embraced by most holiday accommodation owners who owned additional property elsewhere within the EU.

The majority of owners at Vanity Farm are at or above retirement age and in the past have used their non-UK EU located property predominantly returning to the UK for the summer months, however, with the UK's departure from the EU, UK residents are now subject to the Schengen agreement.

The Schengen Area is an area comprising 26 European countries that have officially abolished all passport and all other types of border control at their mutual borders. The Schengen agreement requires non-EU visitors to leave any Schengen country after 90 days in any 180 day period. This will inevitably mean that UK nationals will have no choice other than to occupy their UK holiday home in January/February at some point in order to comply with international law.

Whilst this may not be a planning consideration it is none the less a material consideration which we believe should be considered in an application of this nature. In other words, there are special circumstances which must be taken into account.

As a tenant's association, we take precautions to ensure that planning control is adhered to as much as possible, however, our members have raised the 'Schengen' issue with the board of directors and have voted overwhelmingly in favour of making an application to ensure there is no planning breach, however much unintended.

### **Key considerations**

1. The Schengen Area (as previously stated)
2. This is **Not** a change of use - The application is made to allow flexibility for owner's holiday enjoyment – not a change of use. Most (if not all) bungalows are held as 2<sup>nd</sup> homes by UK nationals who also own property either in the UK or within the Schengen area. We are not seeking full-time residential status and will continue to apply the other conditions of the planning permission to ensure that the properties are not occupied full time, as sole or main residences.
3. This application is for 151 privately owned, brick-built, tiled roof bungalows - not caravans or temporary asbestos/wooden chalets. There would be little, if any impact on services, the character of the rural area or the tourist economy.
4. There is no risk of flooding and therefore no risk to life.
5. There would be no loss in holiday accommodation provision.
6. There would be no change to the amenity/tranquillity of the countryside and residential areas with a modest level of additional holiday/temporary use.
7. The area is well serviced by public transport (although all current owners have their own private transport) and a continually improving road network.
8. The site is adequately lit by floodlighting at the expense of the owners and there is adequate parking on site for owners and visitors.
9. Footpaths connect Vanity Farm to Leysdown village centre, offering shops, doctors, chemists, a post office, a school and other useful amenities. Footpaths also link to neighbouring districts such as Warden Bay and Bay View. The footpaths are well lit by public street lighting. There is a public house on the Vanity Farm park which has indicated a willingness to open in January and February. Our park benefits from mains gas, mains water and sewerage, CCTV and is a completely enclosed gated community.
10. Other holiday parks operate unimpeded on a 12 month basis across the whole of Kent without any restrictions on operating times.
11. There would be no change in terms of 'development' on the site.
12. Bungalows on the Vanity Farm are built to the highest standards and are subject to building control supervision. Most are double glazed, well-insulated, brick and tile construction with mains gas, electricity, mains sewerage and mains water. A majority enjoy central heating and are two-bedroom accommodation. In the main, they are superior to much of the permanent housing on the Isle of Sheppey and owners benefit from a 'community' approach due to a site management office and dedicated grounds-keepers. There are a number of 'vulnerable' people on the park who are monitored to ensure their safety.

## **Policy DM5**

Policy DM5 of the Swale Borough Council Local Plan provides a set criterion for holiday parks. The policy only permits a maximum opening season of 10 months of the year. The policy seeks **to protect rural character, amenity levels, and prevent the caravans from being used as permanent dwellings.**

It would appear that the main focus of the policy was to prevent 'caravans' as stated from becoming permanent residences and we understand why that is important due to their lightweight construction.

Further, the restrictions attempt to mitigate the impact associated with flood risks and recreational activity which is harmful to biodiversity which can be greater in winter months.

The application to allow the park to be open for a 12-month period in the winter 2022 would be contrary to local policy DM5. However, the governments Written Ministerial Statement and associated guidance must be given a significant degree of weight.

The guidance identifies that the extension of the opening period of such parks **would have a potential economic benefit to the local economy.** The opening of the parks for a further two months would provide the **opportunity for a greater footfall for local business, including park operators, shops and restaurants.** Even if the degree of spending is limited to the purchasing of essentials it offers a small benefit to the local economy.

Although the ministerial statement proposed variation would only be temporary relating solely to the winter months of 2021/2022 (two years) the principle of the variation of condition was considered acceptable and more importantly, in practice it had no significant impact in terms of the outcomes Policy DM5 sought to prevent.

I would conclude that, if the temporary permissions which were prompted by the ministerial statement were acceptable due to the pandemic, then it should also be applied now the pandemic has subsided. The reasoning of the statement should still apply albeit that the major reason for the statement has passed.

## **Flood Risk:**

The application site is not location in flood zone 2 or 3 and therefore the site has a low flood risk. Neither the Environment Agency nor the Lead Local Flood Authority have objected to previous proposals which were only temporary in nature. The proposal would not see further additional development on site and as such the impact to flood is considered low.

## **Occupancy conditions/safeguarding holiday accommodation**

The extension of occupancy sought would be subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences. This would be fully met by way of the remaining requirements of condition 2 that will still be in place if this application is approved.

The benefits of tourism are recognised in both local and national policy with the NPPF generally supportive of year-round use, as indeed is the Planning Inspectorate in allowing numerous appeals for year-round holiday use over much of the rest of the country.

Whilst the retention of a closed season may have been generally supported in the past, things have changed in significant and material ways. There will be no loss in terms of holiday accommodation and there will be no impact adversely on the local economy, especially those benefiting from holiday maker spending such as visitor attractions, pubs, restaurants.

### **General commentary**

The coronavirus pandemic made the flexibility of being able to offer some suitable sites an extended period for holiday visitors to use self-contained brick-built bungalows units something the Council supported, not just central government.

Vanity Farm applied for and was granted temporary permissions over two years for owners to stay for an additional two months. This was very successful and did not give rise to any problems at all.

Allowing use of the park over a longer season will bring it into line with sites elsewhere which are in competition with this park – basically most other parks in much of England. Allowing a longer season of use is in line with spirit of the NPPF - increasing the length of season will help improve the viability of the site as well as the spending coming to the area and the benefits this brings to the local economy.

No changes to the site will result from this application as it is only seeking to vary the terms relating to the period during which bungalows can be used on the site - there will be no change to the appearance of the park itself.

The number of people using the site during this additional time in winter is considered unlikely to have any unacceptable impact on the overall character or amenities of the area.

The level of use is likely to be modest and there will be very little 'outdoor' activity taking place (as may be expected in the summer with activities such as games, barbecues, etc). An extension of season should not have any significant impact in terms of the character and amenities of the area and so complies with local plan policy criteria.

It is worth reiterating that appeal decisions serve to demonstrate that year-round use has been considered acceptable in all type of landscape designations (including National Parks and the Green Belt) and the policy seeking to resist year-round use in Swale has now been set aside to a large degree by way of the Interim Policy currently used for development control purposes, being the current policy position of the Council. Allowing a longer season on this holiday area should have a generally neutral impact whilst bringing benefits to the area/local economy.

### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

7.1.28 Policy DM 5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10-month period will be permitted. **Permanent occupation will continue to be resisted.** For the most part, Policy DM 5 will apply to existing holiday parks, but will also be used to guide the length of occupancy that should be allowed in such cases.

## **Policy DM 5**

The occupancy of holiday parks

In order to **ensure a sustainable pattern of development** and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that **higher quality standards of holiday accommodation can be secured**, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10-month occupancy), provided that:

1. The site is **not at risk of flooding**, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;
2. The **amenity and tranquillity** of the countryside and residential areas are safeguarded;
3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and
4. Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.
5. The extension of occupancy is subject to planning conditions **safeguarding the holiday accommodation from being used as sole or main residences**, as set out in Appendix 2.

It is our belief that Policy DM5 should be reviewed due to the global changes that have taken place since 2017, even so, the policy clearly states that its over-riding intended purpose is:

### **1. To resist permanent occupation**

To that end the policy concedes that some parks could be eligible for 10 month extended occupation provided they:

2. Ensure a sustainable pattern of development
3. Protect the character of the countryside
4. Provide higher quality standards of holiday accommodation

Additionally:

5. They will not be at risk of flooding
6. The amenity and tranquillity of the countryside and residential areas are safeguarded
7. The proposals are in accordance with other Policies
8. The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences

Vanity Farm fulfilled all the criteria above and was granted the addition occupancy under Planning Permission SW/11/1608.

To achieve the over-riding purpose, planning conditions have been applied. They are effective in maintaining Vanity Farm as a holiday site for owners to enjoy.

One might argue that granting a 12-month holiday occupancy might make it more difficult for the local authority to police but we would remind you that the further provisions of condition 2 apply all year round and are policed quite satisfactorily by the local authority. We do not believe that this would be a valid reason for refusal in view of the other 'safeguarding' conditions. After all, if a condition is deemed as 'difficult to police' would this not bring the question of the validity of the condition itself into question.

It is also interesting to note that there does not appear to be a single local authority formal intervention relating to this issue, ever, so the supposition that it would make something (with no supporting evidence) more difficult is a spurious one.

The conditions under the original planning permission are:

- a) The chalets are to be used for holiday and recreational use only **and shall not be occupied as a sole or main residence**, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No chalet shall be used as a postal address; and
- c) No chalet shall be used as an address for registering, claiming or receipt of any state benefit; and
- d) No chalet shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rents Acts 1968 and 1974; and
- e) If any chalet owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the expiry of their current lease or licence.

Vanity Farm board of directors ensure that all the conditions are strictly adhered to and our records are available for inspection. You will also note that in the 50+ years of operation there have been no planning breaches on the park due to diligent management practices.

We pay particular regard to the following condition:

- 3) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to the decision notice of application SW/11/1608.

Reason: In order to prevent the chalets from being used as a permanent place of residence.

In brief, this change to an outdated policy condition, would have a minimal effect. In real terms we believe that a very small percentage of our owners would seek to use the site during the winter season, in fact, we estimate that probably only a handful would benefit from

the change but these are law-abiding citizens who would strive not to breach planning control wherever possible.

In order to control the occupancy and avoid the risk of any bungalow becoming a permanent residence we would continue to keep an up-to-date register detailing all our owner's permanent residences. We would also incorporate into the site rules a requirement for owners to advise the committee in advance if they intend to occupy during the 2 months and the length of occupancy, to ensure that the extended occupancy is not abused and that the risk of 'permanent occupancy' is avoided.

Vanity Farm Tenants Association

### **Addendum**

We previously mentioned that the site was granted two temporary permissions as follows:

21/505773/FULL | Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction). | Vanity Farm Camp Leysdown Road Leysdown Sheerness Kent ME12 4LN

20/505526/FULL | Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10-month holiday occupancy restriction). | 1 Vanity Farm Camp Leysdown Road Leysdown Sheerness Kent ME12 4LN

It is with interest that we note the following comments in the planning officers delegated reports.

21/505773/FULL | Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction). | Vanity Farm Camp Leysdown Road Leysdown Sheerness Kent ME12 4LN

### **APPRAISAL**

Principle of development:

The development, which this application seeks to amend, has been judged to be acceptable in principle by virtue of the consent SW/11/1608. Paragraph 031 of the National Planning Policy Guidance states that, 'In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.' On this basis, an assessment under section 73 should be focused on the changes sought.

On the 14th of July 2020, the Government published a Written Ministerial statement **to support the culture and tourism sectors**. The statement encourages local planning authorities to exercise their discretion in relation to planning conditions for caravans, campsites and holiday parks. This

statement encourages local planning authorities not to undertake enforcement action which would unnecessarily restrict the ability of caravan, campsites and holiday parks to extend their open season.

The statement came into effect on the 14th of July 2020 and has been extended until the 31st of December 2022. The statement clarifies that where local authorities consider it appropriate to require an application to vary planning conditions, they should prioritise the application to make an early decision to provide certainty to caravan, campsite and holiday parks operators.

**In doing so they should consider the benefits of longer opening season times** for a temporary period to the local economy as it recovers from the impact of COVID-19.

The National Planning Policy Framework already emphasises that planning enforcement is a discretionary activity, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Given the current situation, while local planning authorities must have regard to their legal obligations, they should not seek to undertake planning enforcement action which would unnecessarily restrict the ability of caravan, campsite and holiday parks to extend their open season.

Policy DM5 of the Swale Borough Council Local Plan provides a set criterion for holiday parks. The policy only permits a maximum opening season of 10 months of the year. **The policy seeks to protect rural character, amenity levels, and prevent the caravans from being used as permanent dwellings.** Further, the restrictions attempt to mitigate the impact associated with flood risks and recreational activity which is harmful to biodiversity which can be greater in winter months. The application to allow the park to be open for a 12-month period in the winter 2022 would be contrary to local policy DM5. However, the governments Written Ministerial Statement and associated guidance must be given a **significant degree of weight.**

The guidance identifies that the extension of the opening period of such parks would have a **potential economic benefit to the local economy.** The opening of the parks for a further two months would provide the opportunity for a greater footfall for local business, including park operators, shops and restaurants. Even if the degree of spending is limited to the purchasing of essentials it offers a small benefit to the local economy. The proposed variation would only be temporary relating solely to the winter months in 2022. The temporary nature of the proposal and the significant weight afforded to the Written Ministerial Statement the principle of the variation of condition is considered acceptable.

20/505526/FULL | Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10-month holiday occupancy restriction). | 1 Vanity Farm Camp Leysdown Road Leysdown Sheerness Kent ME12 4LN

An extract from the planning officers delegated report is as follows:

### **APPRAISAL**

This application is seeking a temporary permission to allow the holiday park to remain open for the closed season (i.e. January and February 2021 only) in response to enforced closed period due to the COVID-19 pandemic.



Policy DM5 states; 'In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets.' Policy DM5 allows for an extended occupancy period of 10 months rather than the (previously) standard 8 months, subject to the holiday accommodation not being used as sole or main residences amongst other considerations.

**The restricted occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing** many of which would be in poorly accessible parts of the borough, and to protect the character of the rural area. Limited occupancy also afforded the opportunity to retain a period of tranquillity in rural areas. (Local Plan 7.1.26). As such a proposal to allow permanent year round holiday occupancy of the caravan park would be contrary to policy DM5 of the Local Plan (2017), and under normal circumstances an application of this nature would be refused.

However in this instance there are material circumstances which need to be taken into account. A planning update Written Ministerial Statement was issued on 14th July 2020 by the Secretary of State for the Ministry of Housing, Communities and Local Government (Robert Jenrick) and outlines the following in relation to Caravan and Holiday parks;

"The Government also recognises that the **tourism industry will need to be able to adapt** to secure its financial future. In response to Covid-19 the majority of UK businesses closed in March 2020, including caravan and holiday parks.

This has had a significant impact on the financial viability of over 2,200 businesses in this sector that employ around 46,000 staff.

These parks are a mainstay of their local economies, providing employment and supporting local services and businesses.

Caravan and holiday parks in England were able to reopen from 4th July 2020. Extending their operation beyond the usual summer season will be invaluable to parks as the sector begins to recover. We are aware that current planning conditions may limit their open season. The temporary relaxation of these planning restrictions can play a vital role in helping local businesses to get up and running again.

The National Planning Policy Framework already emphasises that planning enforcement is a

discretionary activity, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Given the current situation, while local planning authorities must have regard to their legal obligations, they should not seek to undertake planning enforcement action which would unnecessarily restrict the ability of caravan and holiday parks to extend their open season.

**Where local planning authorities consider it appropriate to require an application to vary relevant planning conditions (where for instance there is a risk of flooding or where parks are situated close to protected sites) they should prioritise the application and make an early decision to provide certainty to caravan and holiday park operators. In doing so, they should consider the benefits of longer opening season times to the local economy as it recovers from the impact of Covid-19.**

This Written Ministerial Statement only covers England.”

Further to the Written Ministerial Statement, the Government has published guidance (Coronavirus (COVID-19): planning update on cultural venues and holiday parks) to Local Authorities stating that, for the upcoming winter, where possible, LPA’s should give consideration to the benefits of longer opening season times for a temporary period to the local economy as it recovers from the impact of COVID-19.

The application site is not within a flood zone and therefore it is not considered that the site would be high risk of flooding. No objections have been received from consultees.

In terms of benefits of a longer opening season for a temporary period, it should be noted that England is in national lockdown, and therefore the temporary occupation of the caravans would ensure that there is no unnecessary travel or movement between the site and the occupier’s permanent dwellings, which may risk further spread of COVID-19.

**Temporary occupation would also result in some economic benefits to local businesses and shops for example.**

In terms of impact on nearby residential dwellings, the closest residential neighbours to the holiday park are residential dwellings (including a residential care home) adjacent to the north and west of the site along Leysdown Road. The site is separated from adjacent residential properties by fencing and hedging. Given the temporary nature of the proposal, it is not considered that the caravan site being occupied for an additional 2 months in 2021, would result in significant noise or disturbance to nearby residential properties.

As such, taking into account the above it is considered that temporary permission to allow

the holiday park to remain open for the upcoming closed season (i.e. January and February 2021 only) is acceptable in this instance.

A condition will be attached to the consent to limit the occupation period to January 3rd – February 28th 2021 only. The grant of the Section 73 application results in the grant of a new planning permission and therefore the original permission remains intact. As such, the existing planning consent and occupancy conditions approved under SW/11/1608 remain valid and are not superseded by this temporary consent.

The point here is that the policy was relaxed as a result of government intervention with a view to allowing business to adapt in response to the covid pandemic. The statement clearly states '**some economic benefits to local businesses and shops**'. It is clear that whilst the pandemic may have subsided, businesses are still struggling to recover from the effects of the virus and we would suggest that the reasons for relaxation, as stated, still exist.

We would also put forward that a refusal based on councillors policy decisions (Namely DM5) made five years ago does make any attempt to solve a very real problem and does not reflect the councils stated policy:

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a **positive and proactive approach to development proposals focused on solutions**. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

May we suggest that a 'solution' to this particular proposal, be a complete re-examination of the DM5 policy, based on the fact that there have been significant global changes (Brexit and Corona Virus) which have had an impact on UK citizens and should be addressed as a matter of urgency.