



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 25/09/13
Ymweliad â safle a wnaed ar 25/09/13

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 13 Tachwedd 2013

Appeal Decision

Hearing held on 25/09/13
Site visit made on 25/09/13

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 13 November 2013

Appeal Ref: APP/Q6810/A/13/2198737

Site address: Ocean Heights Caravan Park, Chwilog, Pwllheli, Gwynedd, LL53 6NQ

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr David Thornley against the decision of Gwynedd Council.
- The application Ref C12/1323/41/LL, dated 4 October 2012, was refused by notice dated 16 May 2013.
- The application sought planning permission to relocate 12 static caravans and siting of 4 additional caravans on land that forms an extension to the existing caravan park, to include a landscaping scheme and re-siting of boat storage area and the use of one of the existing caravans as a managers residence without complying with a condition attached to planning permission Ref C11/0986/41/LL, dated 4 April 2012.
- The condition in dispute is No. 5 which states that: "None of the 94 holiday caravans on the site shall be occupied between 10 January and 1 March in the same year".
- The reason given for the condition is: "To confine the use to the main holiday season".

Decision

1. The appeal is allowed and planning permission is granted to relocate 12 static caravans and siting of 4 additional caravans on land that forms an extension to the existing caravan park, to include a landscaping scheme and re-siting of boat storage area and the use of one of the existing caravans as a managers residence at Ocean Heights Caravan Park, Chwilog, Pwllheli, Gwynedd, LL53 6NQ in accordance with the application Ref C12/1323/41/LL dated 4 October 2012, without compliance with condition number 5 previously imposed on planning permission Ref C11/0986/41/LL dated 4 April 2012 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
 - 1) The caravans shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners / operators of the caravan park shall maintain an up-to-date register, log and license agreements of the names of all owners / occupiers of caravans on the site and of their main home addresses and shall make the information available at all reasonable times, to the local planning authority.

Application for costs

2. At the hearing an application for costs was made by Mr David Thornley against Gwynedd Council. This application is the subject of a separate decision.

Procedural matter

3. After the hearing was closed, The Welsh Government published a revised Technical Advice Note (TAN) 20: Planning and the Welsh Language. The Appellant and the Council were given an opportunity to comment on the revised guidance, in so far as it relates to the appeal development. In brief the Council indicated that the new TAN 20 had not materially altered in its content with respect to the determination of planning applications and offered no further comment. The Appellant makes reference to the purpose of the TAN is to provide guidance on how the planning system considers the implications of the Welsh language when Local Development Plans (LDPs) are prepared. The Appellant also refers to the guidance which indicates that planning applications should not be subject to Welsh language assessments and this would duplicate LDP site selection processes. I have taken into account these comments and the content of the revised TAN 20 in the determination of this appeal.

Main Issues

4. These are; the effect of removing the disputed condition to allow year round occupancy of the caravan park would have on policies of restraint to control the establishment of dwelling houses in the area and its effect on the Welsh language.

Reasons

5. Ocean Heights Caravan Park is located to the south of Chwilog. Planning permission has been granted in 2012 to relocate 12 caravans and add 4 new caravans on land located on the west side of the caravan park. The application site included the caravan park as a whole, and disputed condition 5 relates to the total number of caravans on the park excluding the manager's caravan. The reason for the condition was to confine the use to the main holiday season.
6. The Council's objection as stated in the reason for refusal is that the proposal to extend the seasonal restricting to year round occupancy would contravene Policy D18 – Static Holiday Caravan and Holiday Chalet Sites – Extending the Season of the Gwynedd Unitary Development Plan (UDP). The Council had not identified in the refusal reason the harm that would ensue should the condition be removed. However, at the hearing, it was clarified that the concern was the establishment of permanent dwelling houses and the monitoring and the enforceability of conditions put forward by the Appellant. The types of conditions put forward by the Appellant were restricting the caravans to holiday purposes only, and for the site owners to maintain a register of the caravan occupiers.
7. The reasoned justification for UDP Policy D18 refers to the economic tourism benefits of a ten and a half month period, and the need for a condition to ensure that the caravans will be used for holiday accommodation and not for permanent occupation. However, in my view, the objective of the policy could be met through the imposition of the types of conditions suggested by the Appellant. These would ensure occupation for holiday purposes and to prevent permanent residential occupation of the units.

8. The Appellant refers to the duality of control under the licensing regime, and site operators as is the case here require owners of the caravans to enter a licence agreement which states that it would be a breach of the licence agreement if the caravan were to be used as a permanent residence. The standard license agreement was produced at the hearing, and contained within its terms obligations for the caravan owners to declare any change of permanent address and requires proof through various utility bills of their registered permanent address. The Appellant indicated that the Council's licensing authority could impose site licence conditions that require individual licence agreements be terminated by the site operator if the caravan in question was found to be occupied as a main permanent dwelling. At the hearing, the Appellant provided a copy of a site licence containing such clauses which was issued by Anglesey County Council. The Appellant would accept such restrictions if imposed by Gwynedd Council licensing department and importantly would accept a condition requiring the written register to include a log and details of such individual license agreements.
9. In the light of this evidence, and that such planning conditions are widely accepted, the monitoring difficulty would be less burdensome. This is because the planning enforcement officers as well as the public protection officers would ensure compliance with a common purpose making monitoring no more onerous than inspecting the register, and possibly less resource dependant than visiting the site on a regular basis during any closed season. It would also be in the interests of the site operator to ensure compliance since if a breach is detected there would be effective enforcement provisions under the relevant licensing controls of the Caravans Sites and Control of Development Act 1960 as amended.
10. A planning condition is valid even if it is difficult to enforce. The suggested conditions in my view are no more onerous or more difficult to detect a contravention than the seasonal restriction condition. There is no fundamental contradiction with the objectives of the relevant planning policy since its aim is to prevent permanent residential occupation which can be met by the new suggested conditions. I therefore do not consider that UDP Policy D18 is undermined, although not in accord with its particular wording.
11. I note the arguments put forward on viability that restricting all year round occupation would have little impact on the local economy. However, that is not an argument which identifies harm that would ensue if the restriction was lifted. It is not an argument against the proposed development and in my view carries limited weight.
12. I have considered the cumulative impact of the development and the potential that other caravan parks would follow suit in lifting seasonal occupancy restrictions. However, I am aware that other caravan parks under the same site operator have been successful in lifting the restriction considered under the same planning policy. I am not convinced that there is evidence before me to demonstrate cumulative harm sufficient to dismiss this appeal.
13. I conclude that the effect of removing the disputed condition to allow year round occupancy of the caravan park would not undermine the policies of restraint designed to control the establishment of dwelling houses in the area.

14. I note the widely expressed concern that the 2011 census information shows a decline in the Welsh language and that the level in the local ward area is at 78%, and that this may have reached a tipping point where the effects in this case would be seen throughout the year. However, the Council commissioned its own linguistic and cultural assessment which concluded that all year round occupation of the caravan park would not make a significant difference when viewed across a spectrum of cultural and linguistic criteria. There was strong criticism of the assessment, its methodology and its conclusions. However, I find no merit in that argument since it covered a wide range of issues and was thorough and detailed. The assessment predicted that a total of 620 people would stay during the six weeks in question, and spread over the period this would equate to an average of 52 people over a weekend. It is assumed that 10 would come from Wales, with one or two able to speak Welsh, and therefore an assumed predicted total of 50 people would not be Welsh speaking. Furthermore, the assessment concludes that it is not necessarily the case that these people would visit the local village.
15. The local Councillors and residents indicate that there would be a risk of an adverse impact on the Welsh language. However, that risk must be objectively measured in relation to the evidence, and before me there is no compelling evidence to indicate other than the conclusions found in the Council's own commissioned linguistic and cultural assessment.
16. I conclude that the development would not have a significant harmful effect on the Welsh language, and the proposal does not conflict with revised TAN 20 and UDP Policy A2, which considers the effects of development on linguistic, social and cultural matters.
17. I have considered all other matters raised, including the material contained in the Council's Supplementary Planning Guidance papers, and the oral and written submissions of local residents and Councillors, but none outweigh my conclusions on the main issues. I therefore consider that this appeal should be allowed, and the condition discussed at the hearing imposed for the reasons I have outlined above.

Iwan Lloyd

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Thornley	Appellant
Mr Bond FRICS IRRV	Appellant's Agent

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sweenie BA MSC	Development Management Officer
Ms Owen BA PGTP	Development Control Manager
Cllr Meurig	Councillor Gwynedd Council

INTERESTED PERSONS:

Cllr Evans	Councillor Gwynedd Council
Cllr Edwards	Councillor Gwynedd Council
Cllr Williams	Community Councillor
Mr Edgar	Resident
Cllr Griffith	Community Councillor
Mr Slater-Mason	Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council notification letter and list of those notified
- 2 Written comments from Cllr Evans with enclosures
- 3 Written submissions from Mr Edgar with enclosures
- 4 UDP Statement of the Council's decisions
- 5 Supplementary Planning Guidance on the Welsh Language
- 6 Licence Agreement and copy of site licence in Anglesey
- 7 Appellant's cost application
- 8 Comments from the main parties on revised TAN 20