

Our ref: Fleet Cabins NMA/MM

Your ref: H05-0114-15

Date: 31st October 2017

LarkfleetHomes

Mr Richard Fidler
Development Manager
South Holland District Council
Council Offices
Priory Road, Spalding
PE11 2XE

Dear Richard

NON MATERIAL AMENDMENT (S96a) TO PLANNING PERMISSION FOR THE CONSTRUCTION OF 12 LOG CABINS FOR HOLIDAY/LEISURE USE (REFERENCE H05-0114-15) BY AMENDING/DELETING CONDITIONS 3 & 4.

LAND AT LOWGATE FLEET BANK FLEET SPALDING

I refer to our recent dialogue in respect of the above development and the concerns about the effect of conditions 3 and 4 on the viability of the scheme as well as the concerns that we have that the conditions conflict with each other and are therefore unenforceable.

In our view because of the contradictory nature of the conditions we suggest that the conditions are unlawful as currently worded and as such unenforceable. As such it is in the interests of both the Council and applicant to amend these conditions.

This application under Section 96a of the Act comprises this letter together with the following:

- 1) Completed Planning Portal Application Forms and Certificates.
- 2) Location/red line plan.
- 3) Good Practice Guide on Tourism, DCLG, 2006.
- 4) Defining Holiday Accommodation, British Holiday & Home Parks Association, 2015.
- 5) Holiday Accommodation Guidance, East Riding Council.
- 6) Recent decision notice from East Riding Council in respect of log cabin development, May 2015

The application fee will be submitted under separate cover by BACS.

Planning History

As you are aware the development consists of the following permissions/applications:

H05-0114-15	Construction of 12 Log Cabins. Granted consent 11 th September 2015
H05-0699-16	Construction of 6 log cabins for holiday/leisure use. Granted 18 th July 2016
H05-0773-17	Construction of 6 no. Log Cabins. Submitted August 2017. Awaiting determination

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The planning permission for the additional 6 cabins have the same conditions on the permission. The intention is that all the cabins would have the same conditions as proposed in this application, including the current application which remains undetermined.

Operation of the Holiday Park

The operator of the proposed site intends to build the log cabins in phases. Some of the cabins would initially be built as rental units rented out to people for holiday and leisure use associated with the fishing lake etc. However they may also be sold to people for their own family and friends to use for leisure or holiday purposes.

The operator would then seek to let out the purchased units when they are not being used by family or friends on a similar basis to those units that are rented out by the operator. The operator would charge a commission for this.

The income from the renting the units when not used by family or friends will help to pay for the purchase of the cabin.

The operator will manage the site, arrange lettings and staff will be on site to meet new arrivals, clean cabins, change bedding and towels etc. and generally maintain the site and the fishing lake. . This is similar to how many static caravan sites/parks operate throughout the UK. (<https://www.park-resorts.com/ownership/letting/>)

The development will provide employment opportunities for local people as well as attracting customers to local businesses in the area such as shops, public houses etc., which will be of benefit to the local economy and fully in accord with the Councils policies relating to development in the countryside and the Council objectives to enhance the rural economy.

The problem with the conditions

The conditions which we wish to modify are the two conditions that relate to restricting the development to holiday use only. In some respects you could argue this is not necessary (and therefore fails the NPPG test for conditions on this basis, as well as not being precise/contradictory), because the description of the development already limits the use of the cabins to holiday/leisure use. However, we don't have any issue with limiting the use to that, but we do want to ensure that there are no periods throughout the year when the cabins are not used as any period of time when they are not available will not only limit their attractiveness to potential purchasers, but will also add to the difficulties in financing the purchase of the cabins and the viability of the entire scheme.

The conditions that are currently used to restrict the occupancy of the cabins are worded in a way that is at best unhelpful and contradictory.

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Condition 3 states:

The log cabins hereby permitted shall not be used for purposes other than holiday purposes. For the purpose of this condition 'holiday purposes' means occupancy by the same person, groups of persons or family for period(s) not exceeding a total of 28 days in any one calendar year. No log cabin shall be used as the main residence of any occupant.

And

Condition 4 states:

The log cabins hereby permitted shall not be occupied by the same person, groups of persons or family for period(s) exceeding a total of 6 months in any 12 month period.

One condition requires limits the occupancy to 28 days each year and the other 6 months? Which is correct? They can't both be correct can they?

The prime reason for the conditions, as stated in the Local Plan policy is to ensure that the cabins are not people's sole or primary home. We agree with this objective as the intention is that the cabins will be used for holiday/leisure purposes and that the occupiers/owners will have a primary home elsewhere.

We therefore propose to amend/replace the conditions with a single, less onerous, more flexible and more precisely worded condition, and one that will also be more enforceable, whilst still ensuring that the cabins do not become people's sole or primary home.

Circular 11/95 although no longer current provided advice in respect of holiday accommodation and the use of conditions in paragraph 117. This stated in respect of allowing such development in the countryside as an exception to the normal policies of restraint in the countryside, that:

There may be circumstances where it will be reasonable for the local planning authority to grant planning permission for holiday accommodation as an exception to these policies, with a condition specifying its use as holiday accommodation only. For example, conversions of redundant buildings into holiday accommodation where conversion to residential dwellings would not be permitted may reduce the pressure on other housing in rural areas. A holiday occupancy condition would seem more appropriate in those circumstances than a seasonal occupancy condition.

Further advice is given in the *Good Practice Guide on Planning for Tourism* (which replaced PPG21: Tourism, 2006) and it gives the example of a condition used in East Yorkshire to ensure that the holiday accommodation is appropriately used.

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The condition states:

- i. the caravans (or cabins/chalets) are occupied for holiday purposes only;*
- ii. the caravans (or cabins/chalets) shall not be occupied as a person's sole, or main place of residence;*
- iii. the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/log cabins/chalets on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.*

The reason for these conditions is to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation. The register required in (iii) above shall normally be collected by the caravan site licence holder or his/her nominated person.

Whilst the guidance has been replaced by the NPPF/NPPG, it is still material as no other detailed guidance is available. I think this will serve the same purpose as the current conditions and will be much less confusing. And importantly it will not have an impact on the attractiveness of the proposed development to potential purchasers.

In addition by requiring a register of the names and addresses of all occupiers and owners the local planning authority will be able to take appropriate action should they suspect that a breach is occurring, which the current conditions do not do.

As it serves the same purpose, i.e. ensuring that the cabins are used for holiday accommodation, then I suggest the condition can be amended under Section 96a of the Act as there will be no material change to the planning permission.

The detailed wording of the condition should read as follows:

- i. the log cabins are occupied for holiday purposes only;*
- ii. the log cabins shall not be occupied as a person's sole, or main place of residence;*
- iii. the site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual the log cabins on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.*

The reason for these conditions is to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation. The register required in (iii) above shall normally be collected by the caravan site licence holder or his/her nominated person.

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As well as being in accordance with existing Local Plan Policy such as SG1, SG4, SG12 and LT7, the proposed amendments are also in accord with Policy 9 of the emerging Local Plan currently at Examination and the relevant paragraphs of the NPPF.

As such we trust officers will agree with the view that this application for a non-material amendment is acceptable and will help ensure that the development of the log cabins will be occupied as originally envisaged as holiday accommodation.

If you have any queries, please do not hesitate to contact me.

Yours sincerely



Mark Q Mann, DipTP, MRTPI
Planning Director

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