



## Appeal Decision

Site visit made on 12 July 2023

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 September 2023**

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### **Appeal Ref: APP/B9506/W/22/3312865 Sandy Balls Holiday Park, Godshill SP6 2JZ**

- 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 a condition subject to which a previous planning permission was granted.
  - The appeal is made by Greg Lashley (Away Resorts) against the decision of New Forest National Park Authority.
  - The application Ref 20/00454, dated 24 June 2020, was refused by notice dated 19 July 2022.
  - The application sought planning permission for use of land for the siting of 108 holiday lodges (static caravans) including the relaying of 108 bases, access roads, parking spaces, refuse enclosures and associated landscaping, without complying with a condition attached to planning permission Ref 18/00139, dated 20 July 2018.
  - The condition in dispute is No.15, which states that: There shall be no occupation of the static caravans to the north-west and south-east of the site except between 1 February and 31 October, in accordance with the layout shown on plan number 3939-520C.
  - The reason given for the condition is: In the interests of neighbouring amenity as a result of increased activity and consequent pressure on the National Park and this would be contrary to Policies DP1 and CP1 of the New Forest National Park Core Strategy and Development Management Policies DPD (December 2010).
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### **Decision**

1. The appeal is dismissed.

### **Application for costs**

2. An application for costs was made by Greg Lashley (Away Resorts) against New Forest National Park Authority (the NPA). This application is the subject of a separate Decision.

### **Procedural Matters**

3. The NPA's Committee Report recommended approval of the planning application the subject of this appeal, subject to the prior completion of a Section 106 legal agreement to vary a current legal agreement controlling the various uses within the holiday park. Since the submission of this appeal, a signed and executed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, dated 26 July 2023, has been submitted.

4. The S106 Agreement also includes an obligation to pay an '*Ecological Mitigation Contribution*' in accordance with the NPA's scheme of mitigation<sup>1</sup> to address impacts arising from new visitor accommodation on the New Forest European Protected Site (the New Forest EPS). This is a matter to which I later return.

### **Background and Main Issues**

5. The appeal site comprises part of the wider Sandy Balls holiday park complex, which lies to the west of Godshill village, within the Western Escarpment Conservation Area and the New Forest National Park (the National Park). The holiday village has a long-established use, dating back to at least the mid-1980s, and includes a comprehensive range of on-site facilities in addition to static caravan accommodation. These include reception/administration/guest services buildings, retail and restaurant facilities, indoor and outdoor swimming pools, outdoor play provision, cycle hire facilities. There is also an area of woodland, including designated Ancient Woodland, together with internal access roads and parking to serve the site as a whole.
6. The appeal site lies within the north-eastern part of the holiday park and some of its boundaries form part of the outer edge of the complex. It formerly comprised fields which were occupied by 275 touring pitches. Following planning permission Ref 18/00139, these have been replaced by 108 static caravans and associated bases which are used for holiday occupation, together with parking spaces, refuse enclosures, tarmac access roads and new soft landscaping.
7. The site is partly bounded by open countryside, to the north and east, and to the south/southeast by gardens of residential properties to the north of Southampton Road. A public footpath runs adjacent to its northern and eastern boundaries.
8. Condition 15 of permission Ref 18/00139 restricts the occupancy of 55 of the holiday lodges, located in the northwest and southeast parts of the appeal site to 9 months of the year (1 February to 31 October). The remaining, more centrally located, 53 units, benefit from unrestricted year-round holiday use, as do another 330 holiday units within the wider holiday complex.
9. The appellant seeks the removal of condition 15 to enable the year-round holiday use of the restricted units, citing associated economic benefits, including more year-round employment, increased support for other businesses in the area and the rural economy, and benefits to the UK tourist industry as it recovers from the impacts of the Pandemic.
10. Having regard to the reasons for condition 15, the NPA's reasons for refusal of its proposed removal, and the NPA's statement of case, and noting the development plan policies in place at the time of the original grant of planning permission, the main issues for this appeal are the effect of the removal of condition 15 on:
  - The living conditions of neighbouring occupiers, having regard to noise, light and general disturbance impacts;

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<sup>1</sup> *Mitigating Recreational Impacts on New Forest Designated Sites* (July 2020)

- The landscape and scenic beauty of the National Park, with particular regard to lighting impacts; and
- The natural environment of the National Park, with particular regard to animal safety.

## **Reasons**

### *Living conditions*

11. The appeal site forms an integral part of the wider holiday park, which, as a whole, has been comprehensively developed, as noted in the preceding paragraphs. As such, the holiday park complex already generates a significant amount of noise and activity, including during the winter months, due to the year-round use of its facilities, including 330 holiday units which are available for year-round occupation.
12. The proposed occupation of another 55 units for 3 additional months of the year would represent a relatively small increase in activity within the holiday park as a whole. However, of significance is the proximity of the appeal site to the edge of the holiday park complex and to nearby residential properties, including those located along the north side of the B3078 Southampton Road, which lie to the south and east of the site, a property to the east at Breach Acre, and a property to the north of the site at New Barn.
13. In this regard, whilst the existing use of the appeal site is lawful and established, I have noted third-party objections to the proposal which assert that neighbouring living conditions are already harmed by the existing holiday activities taking place on the appeal site, and that this harm, relating to disturbance from noise, light pollution and general disruption, would be exacerbated by the appeal proposal to intensify the use of the appeal site during the winter period of neighbour respite.
14. I acknowledge that there is an existing year-round physical presence of lodges and associated supporting infrastructure on the restricted part of the site, involving some activity and lighting associated with their ongoing security and maintenance during the winter season. There is no cogent evidence before me to suggest that the level of activity associated with ongoing winter maintenance of this part of the site is such that it is adversely disturbing to neighbouring residents.
15. On the basis of the maximum potential lodge occupancy, which would result in an additional 330 people per night, and even based on an average occupancy amounting to an additional 132 people per night, the proposal would result in a significantly greater amount of activity on the appeal site during the 3 winter months of the year, due to the more than doubling of the number of static caravans which would be available for holiday occupation during that period. This would occur when, arguably, the wider impacts of additional noise and light pollution have the potential to be greater, due to it generally being a quieter time of year, and the months when hours of daylight are shortest.
16. The appellant has confirmed that the lodges were intentionally designed to position fenestration and outside decked areas away from the site boundaries, and that additional boundary landscaping was introduced in order to minimise potential impacts on the wider area.

17. However, given the proximity of lodges, access drives and parking spaces to the site boundaries, I do not consider that the existing layout of the lodges in question would mitigate against noise impacts associated with the proposal, including those associated with visitor car engines, in-car audio systems, and car doors slamming, noise associated with visitors entering and exiting their cars and the lodges, which could reasonably include raised voices, as well as noise associated with outdoor recreational use such as children playing and outdoor dining.
18. In this respect, I note that the existing lodges are of a size that would reasonably accommodate family occupants and/or groups involving more than one car. Moreover, the time period in question includes events such as Christmas, New Year, Halloween and Bonfire Night which would reasonably be expected to attract celebratory group gatherings of holiday occupancy.
19. Potential disturbance from lighting would include that associated with car headlamps, internal light emanating out through the fenestration of the occupied lodges, some of which faces the site boundaries, and outdoor lighting around the site, all of which have the potential to have notable neighbour disturbance impacts during the generally quieter and shorter daylight hours of winter.
20. I saw that boundary landscaping has become well-established round the appeal site, acting as an effective barrier to the single storey holiday lodges. However, I visited the site during the summer, when the boundary vegetation would reasonably be at its thickest, and the information before me is that the existing boundary planting includes deciduous as well as evergreen specimens.
21. I have taken account of the appellant's submitted *Appraisal of Night Time Lighting* (SLR April 2020) (the Lighting Appraisal). However, I am not satisfied that this report, which is based upon limited evidence obtained during two days and nights in mid-March, provides sufficient demonstrable evidence to satisfactorily conclude that lighting impacts associated with the proposal would not demonstrably harm neighbouring living conditions.
22. I consider that a more comprehensive report is required in this respect, which includes assessments at various times spread over months of the site opening period, including dates closer to the start and end of the currently closed period. Data collected towards the end of October and beginning of February would, reasonably, provide a more accurate indication of lighting impacts during the Winter months than readings taken in mid-March, when deciduous vegetation would more likely be fuller in leaf and daylight hours longer.
23. Moreover, the Lighting Appraisal does not sufficiently analyse lighting spill impacts, including a more detailed simulation of light emissions from the site, including those associated with car headlights and lodge windows, and with reference which particular lodges were in occupancy during the data collection periods. Moreover, the appellant has not provided a data analysis of existing light emissions associated with ongoing winter maintenance of the lodges, and having regard to the landscape boundary screening which exists during the winter months.
24. I acknowledge the appellant's intention to supplement existing landscaping with evergreen planting, and the intention to let the existing boundary landscaping grow further. However, given the proximity of the proposal to the

- site boundaries, I do not consider it appropriate to rely upon sufficiently robust boundary landscaping to screen potentially harmful impacts arising from noise disturbance and light spillage impacts, as I cannot be certain such planting will be implemented and/or thereafter maintained. Moreover, whilst external lighting installations, such as low-level bollard lighting controlled by movement sensors, are capable of being controlled by condition, this would not include control over lighting arising from cars and I am not persuaded that the inclusion of blinds and curtains, which may not be used by lodge occupants, would act as sufficient mitigation against light emissions from lodge windows.
25. As such, I am not satisfied that cogent evidence has been provided to satisfactorily demonstrate that noise and light impacts are capable of being effectively screened during the winter months, to the extent that they would not demonstrably impact upon neighbouring living conditions.
26. This view is not altered by a lack of objection from the NPA's Environmental Health Officer (EHPO, noting that the EHPO comments referred to by the appellant relate to the original application, and consideration of this appeal is based upon the current use of the site as a starting point, which is that which is currently experienced by neighbouring residents.
27. For the above reasons, I conclude that it has not been satisfactorily demonstrated that the appeal proposal would not result in demonstrable harm to the living conditions of neighbouring occupiers having regard to noise, light and general disturbance impacts. As such, the appeal scheme would not accord with Policy DP2 of the *New Forest National Park Local Plan 2016-2036* (2019) (the Local Plan) in so much as this policy seeks to ensure that new development proposals would not result in unacceptable adverse impacts on amenity in terms of, inter alia, additional impacts and visual intrusion.
28. This is generally consistent with paragraph 130 of the *National Planning Policy Framework 2021* (the Framework), which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

#### *Landscape and scenic beauty*

29. The NPA's concerns in respect of this issue relate to an increase in lighting arising from the proposal and associated light pollution. I note that the supporting text to Local Plan Policy SP15 confirms the NPA's intention to acquire International Dark Sky Reserve Status from the International Dark Sky Association. Also, one of the themes of the NPA's *Landscape Action Plan* (New Forest National Park Authority, 2013) is that of the conservation and enhancement of tranquillity and dark night skies.
30. The appellant has addressed this matter through the submission of the aforesaid Lighting Appraisal. I have noted that much of the existing lighting comprises low-level bollard style lighting, some lodges have restricted glazing on their rear, boundary-facing elevations, and perimeter planting exists around the site boundaries.
31. However, the proposal would involve lighting from the currently restricted part of the holiday park being visible throughout the winter months, and the concerns I have raised above in respect of the data used to inform the Lighting Appraisal, in particular the time of year it was obtained, limited amount of data

- used and reliance upon boundary landscaping as screening, as stated in my consideration of the first main issue, also apply to this second main issue.
32. As such, and noting that the appellant has not provided a detailed landscape and visual impact assessment to support the proposal, and, having regard to the location of the appeal site on the edge of the holiday park, I consider that the Lighting Report alone is not sufficient to satisfactorily demonstrate that that additional lighting resulting from the appeal proposal would be kept within the confines of the appeal site to the extent that it would not unduly impact on the dark skies of the National Park during the darkest months of the year.
  33. Moreover, I am not persuaded that light currently emitted in association with the restricted occupancy lodges during the 3 winter months would not be significantly different to that emitted during that period should all-year-round occupancy be allowed, even taking into account that the existing lighting is not controlled by condition. This is for the reasons stated above in respect of my consideration of the likely impact upon neighbouring living conditions.
  34. Neither do I find that the existing appeal site layout is such that winter access to the unrestricted parts of the appeal site necessitates travelling through the restricted opening area to the extent that it would require lighting of that area to a degree that would be similar to if it were occupied during the winter.
  35. My views on this matter are not altered by a lack of objection from the Case Officer and EHPO, and my consideration of this matter is based on the current use of the site being the comparison baseline, rather than its previous use as a touring and camping park, during which lighting was uncontrolled during the winter months.
  36. For the above reasons, I conclude that it has not been satisfactorily demonstrated that the appeal proposal would not materially harm the landscape and scenic beauty of the National Park, with particular regard to lighting impacts. As such, the proposal would be contrary to Local Plan Policies SP7 and SP15 in so much as these policies seek to ensure that development proposals conserve and enhance the character of the New Forest's landscapes and that new development avoids or mitigates against visual intrusion, including reducing the impacts of light pollution on the 'dark skies' of the National Park and controlling development to prevent artificial lighting from eroding rural darkness and tranquillity.
  37. Whilst not resulting in a physical extension of built development on the appeal site, the proposal would increase the overall site capacity of the holiday park, without involving any removal of pitches from sensitive areas. As such I also find some conflict, although to a lesser degree than with the above policies, with the objectives of Local Plan Policy DP47 which seeks to control the development of new campsites and extensions to existing holiday parks, caravan or camping sites in the interests protecting the New Forest Environment.
  38. For similar reasons, the proposal would not accord with policies of the Framework which require the conservation and enhancement of the natural environment, as set out in Chapter 12. Paragraph 176 in particular, confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in



relation to these issues, and within which, the scale and extent of development should be limited.

### *Animal Safety*

39. The NPA's concerns with regard to this issue relate to the impact of increased traffic movements on the local roads, in particular the B3078 (Roger Penny Way) upon the safety of free roaming animals within the National Park. Owned by commoners, these include ponies, cattle, sheep and pigs, and are a distinctive feature of the National Park environment, making a significant positive contribution to the quality of its landscape. In this regard, I note that one of the key characteristics of the Northern Heathland and Forest Landscape Character Area (LCA)<sup>2</sup>, one of two LCAs which the site straddles, is that '*New Forest ponies and cattle freely roam across heath and open Forest roads...*'
40. The NPA has provided evidence of recorded animal accidents between 2017 – 2021, indicating that there was a high number of such incidents along the stretch of the B3078 between the M27 and the holiday park. On this basis, the NPA is concerned that a resulting increase in traffic along this road as a result of the proposal would increase the risk of commoners' animals being hit by vehicles, particularly given that the traffic increase would occur during the darker winter months of the year, when the number of animal-related accidents tends to be at its greatest.
41. The appellant's supporting Traffic Assessment acknowledges that there would potentially be an additional 83 car movements on Southampton Road to the east of the holiday park as a result of the proposal. This would equate to a comparably small uplift of 2.2% on the current flows. Moreover, on the basis of the data provided, the report concludes that there is no correlation between winter conditions and the number, or severity of, accidents involving people. The findings of the report are not disputed by the NPA.
42. Road grazing by commoner's animals is an established part of the New Forest environment, which inevitably puts the animals at some risk. Whilst the Traffic Assessment relates to accidents involving people, it provides a reasonably useful indication that driver behaviour is not likely to be less safe during the winter months. Moreover, the appellant has provided evidence that there has been a decline in animals killed and injured in accidents over the period between 1990 and 2021<sup>3</sup>.
43. I also note that lodge check-in and check-out times at the holiday park tend to be generally confined to daylight hours, so that park arrivees and departees would reasonably be unlikely to be travelling during the hours of darkness.
44. Taking all of the above factors into account, whilst I note that the B3078 has been the subject of a number of animal related traffic accidents, on the basis of the information before me, I find that there is no demonstrable evidence that the resulting increase in traffic associated with the appeal scheme within the vicinity of the appeal site, would lead to an increase in road animal deaths.
45. For the above reasons, I conclude that it has not been satisfactorily demonstrated that the proposal would materially harm the natural environment

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<sup>2</sup> New Forest National Park Landscape Character Assessment (New Forest National Park Authority, 2015)

<sup>3</sup> New Forest National Park, Animal Accidents Analysis 2021

of the National Park, with particular regard to animal safety. As such, the proposal accords with Local Plan Policy SP6, in so much as this policy seeks to ensure that proposals should protect, maintain and enhance, inter alia, locally important features of the natural environment.

## **Other Matters**

### *European Protected Sites*

46. The appeal site lies within the Zones of Influence of the New Forest EPS and the River Avon EPS, where a net increase in visitor overnight residential accommodation is likely to result in impacts to the integrity of these sites, requiring the inclusion of a package of avoidance/mitigation measures to address these effects.
47. The completed S106 Agreement deals with the mitigation against the potential harm to the New Forest EPS arising from increased recreational usage, by securing a financial contribution in accordance with the NPA's adopted Mitigation Strategy.
48. Mitigation of the potential harm to the integrity of the River Avon EPS as a result of increased levels of nutrients, particularly phosphates, from wastewater entering the river system, would be dealt with through the provision of a new filtration system within the existing nearby sewage treatment plant. The NPA is satisfied that this can be secured by means of a planning condition.
49. Notwithstanding this, within the context of the appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine the above matters further and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the EPS.
50. I would need to be satisfied that the proposed mitigation schemes for addressing the recreation and foul water impacts of the development on the EPS are certain at the time of AA, so that no reasonable scientific doubt remains as to the effects of the development on the internationally designated European sites.
51. However, as there are other clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. Therefore, I do not need to consider these matters any further as part of my decision.
52. The site lies within the Western Escarpment Conservation Area (WECA). Under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act), I am, as the decision maker, required to consider the effects of the development on this designated heritage asset.
53. The site lies within Character Area F – Godshill and surrounding agricultural encroachment into the Forest, according to the NPA's conservation area character appraisal<sup>4</sup>. This comprises the dispersed linear settlement of Godshill

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<sup>4</sup> Western Escarpment Conservation Area Character Appraisal (New Forest National Park Authority, 2009)



and 18<sup>th</sup> and 19<sup>th</sup> century encroachment into the Forest to the northeast, south and southeast, and medieval encroachment in the southwest of the area. This area includes modern development scattered throughout between earlier buildings with the design and character of the later 20<sup>th</sup> century development generally not reflecting the local distinctiveness and vernacular detailing of the wider conservation area. The holiday park would form part of the latter.

54. In determining the application, the NPA has raised no concerns in respect of there being any resulting harm to the character and appearance and significance of the WECA. Based on the information before me, including the appeal site history, together with my site visit, I have no reason to disagree on the basis that the proposal would not introduce any new built development onto the appeal site, which already has a character which is entirely in keeping with its use as part of the holiday lodge accommodation aspect of the wider holiday park.

### **Planning Balance and Conclusion**

55. There would be economic benefits to the tourism industry and local economy as a result of the proposed increase in holiday occupancy during the winter months. There would also be sustainability benefits associated with the proposed travel plan. However, there is no evidence before me that such benefits would be greater than modest in scale, given the additional number of annual holiday occupation bedspaces proposed over a 92-day period. Moreover, the supporting text to Local Plan Policy DP47 states that the existing holiday parks and campsites are well provided for in and around the New Forest. As such, these benefits would not justify or outweigh the harm I have identified in respect of the first two main issues.
56. There would also be environmental benefits as a result of the '*Ecological Mitigation Contribution*' and proposed improvements to the existing sewage treatment plant. However, these are policy requirements in order to mitigate the impact of the proposal upon the European sites, and as such, do not outweigh the harm in respect of the first two main issues.
57. Notwithstanding the lack of demonstrable harm to the natural environment, the significant harm to neighbouring living conditions and the National Park landscape and scenic beauty are sufficient reasons to dismiss the appeal.
58. For the above reasons, I conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR