

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** VAR/2017/0021                      **Grid Ref:** 285764.13 308481.27

**Community Council:** Glantwymyn                      **Valid Date:** 02/08/2017      **Officer:** Dunya Fourie

**Applicant:** Mr G Davies, Bryn Uchel Isaf Caravan Park, Cwmllinau, Machynlleth, Powys, SY20 9PE.

**Location:** Bryn Uchel Isaf Caravan Park, Cwmllinau, Machynlleth, Powys, SY20 9PE.

**Proposal:** Application to modify section 52 legal agreement attached to planning permission M12131 (occupancy restriction)

**Application Type:** Discharge/ variation of Section 106 Agreement

### The reason for Committee determination

The application was called in by the Local Member on the grounds of public interest in the application.

### Site Location and Description

The site concerns Bryn Urchel caravan park, the Park is located east of Cwmllinau and is accessed via an unclassified road off the A470 Trunk Road.

This application seeks consent to remove clause 7 of the Third Schedule of the Section 52 legal agreement, this legal agreement forms part of planning consent M12131 which granted consent for Bryn Urchel caravan park.

The wording of clause 7 is as follows:

*“Static caravans stationed on the site shall be used for holiday purposes only and shall not be used for human habitation between 1<sup>st</sup> November and the last Friday before Good Friday, apart from a fortnight’s occupation over Christmas and New Year.”*

### Consultee Response

Glantwymyn Community Council

*E mail of the 18<sup>th</sup> October 2017*

The members of Glantwymyn Community Council discussed this application at a recent meeting of the Council and unanimously agreed to object to any modification of the Section 52 Legal Agreement at Bryn Uchel Isaf Caravan Park in order to avoid any increased pressure on local resources in the Cwmlline area.

## **Planning History**

NMA/2017/0065 - Application for a non-material amendment to planning permission M12131 in respect of removal of condition 8 to allow the caravan park to be occupied throughout the year for holiday purposes.

M12131 - permanent permission for caravan park – Conditional Consent 25<sup>th</sup> September 1994

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (9<sup>th</sup> Edition, November 2016)

Technical Advice Note 13-Tourism (1997)

WCG 016/2014 The Use of Planning Conditions for Development Management (October 2014)

### Local Planning Policy-Unitary Development Plan for Powys (March 2010)

SP8-Tourism Developments

GP1- Design and Energy Conservation

GP2-Planning Obligations

TR1- New Tourism Developments

TR2- Tourism Attractions and Development Areas

TR2-Tourism Attractions and Development Areas

TR6- Holiday Static Caravan Sites

TR7-Touring Caravan and Camping Sites

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of varying the Section 52 Agreement

TAN 13 recognises that holiday makers are drawn to the most attractive and, therefore, usually most protected areas of countryside and coastline. Bryn Uchel is located where provision of permanent housing would be contrary to national and/or local policies; as such it is reasonable to impose a condition specifying its use as holiday accommodation.

UDP policy TR6 concerns holiday static caravan sites, the reasoned justification and Criteria C of the policy confirm a condition will be imposed on any planning permission for static caravan sites to ensure that they do not become used for permanent residential use but continue to contribute to the local tourism economy. TAN 13 and Policy TR6 does not specify a timeframe for occupancy, only that holiday units shall not be occupied as a person's main residence. As such it is considered a condition without applying a timed seasonal restriction is sufficient to ensure the static caravans would not be used as permanent residential accommodation.

Condition 8 of planning consent M12131 seeks to control the occupancy of the consented caravan units, the condition reads:

*“The holiday static caravans hereby approved shall be occupied as holiday accommodation only and shall not be occupied as a person’s sole or main place of residence. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home address and their date of arrival and departure from the accommodation”.*

Wording of condition 8 was modified under application NMA/2017/0065 to update the condition in line with Circular 016/2014.

In line with Circular 016/2014, the occupancy of any forthcoming application seeking consent for holiday units is controlled via condition. Condition 8 of planning consent M12131 (as amended) restricts the occupancy of the consented caravans in line with current planning policy. Paragraph 4.21 of Circular 016/2014 confirm that local planning authorities should seek to overcome planning objections, where appropriate, and confirm matters required by condition should not be duplicated in a planning obligation.

Based on the current national policy context and acknowledging that the occupancy of the caravans would remain restricted under condition 8 of planning consent M12131, the proposal to remove clause 7 of the Section 52 legal agreement is considered acceptable.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **RECOMMENDATION**

Clause 7 of the Section 52 agreement in association with planning consent M12131 no longer serves a meaningful planning purpose, as such the recommendation is one of approval for the modification of the Section 52 legal agreement.

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