

SEASONAL AND HOLIDAY OCCUPANCY CONDITIONS

for

CARAVAN & CHALET PARKS



This statement provides an outline of the issues and current practice relating to the use of seasonal and holiday occupancy conditions which are commonly applied to planning permissions granted with respect to caravans and chalets used for holiday purposes.

Background

The use of seasonal occupancy conditions has been a feature of planning in relation to caravan and chalet parks for many decades, having first reflected public health considerations concerning the poor overwintering qualities of these types of accommodation. Such a condition came into regular use for caravans in particular following the introduction of site licensing by virtue of the Caravan Sites and Control of Development Act 1960, both for environmental health and planning land use reasons.

As the quality of caravan and chalets accommodation began to improve, holiday occupancy conditions began to "belt and brace" seasonal occupancy conditions in order to ensure they were not used as permanent accommodation contrary to national policies, particularly with regard to development in the countryside.

With economic improvement in the mid to late 1980s providing the means for holiday taking over a longer seasonal period and significant advancements in caravan and chalets construction, there was increasing pressure for longer seasonal use than the traditional March to October period. Encouraged by successive governments seeking to extend the tourist season the holiday parks industry began to request seasonal extensions.

Specific advice was first outlined in Annex C of Planning Policy Guidance Note PPG 21: Tourism (November 1992) which was subsequently updated and replaced by Annex B to The Good Practice Guide on Planning For Tourism (May 2006).

Although this planning guidance has now been revoked it remains helpful in understanding the basis upon which planning policy and appeal decisions have been determined to date on this matter. Annex B to the Guidance is attached for reference.

The use of conditions in planning permissions

Circular 11/95: the use of conditions in planning permissions considers both seasonal occupancy and holiday occupancy conditions in paragraphs 115 and 117 respectively together with Model Condition 43.

As far as seasonal occupancy conditions are concerned, they are considered acceptable in order to limit the use of land for a particular purpose to certain seasons of the year both in order to prevent the permanent residential use of premises or in order to provide appropriate protection for the local environment; particularly near fragile habitats which require some respite to allow seasonal breeding or winter feeding to take place.

The suggested condition effectively defines a closed period with boundaries set by way of a commencement and completion date.

With regard to holiday occupancy conditions these were relatively new at the time of the circulars publication and guidance was drawn from the relevant planning policy guidance note at that time (PPG 21: tourism).

In drawing a distinction between the two types of condition it is to be noted that the circular guidance indicates that, "*authorities should continue to use seasonal occupancy conditions to*



prevent the permanent residential use of accommodation which by the character of its construction or design is unsuitable for continuous occupation, particularly in the winter months".

However, with many modern caravans and chalets now being designed to very high build specifications, providing accommodation more than capable of occupation during the winter season.

The issue in planning terms has turned from one of controlling occupation for environmental health reasons to one predominantly of controlling residential occupation of caravans or chalets sited in areas that would not normally be considered acceptable, or would be contrary to development plan policy. This has brought about a change in approach from controlling caravan occupancy by way of seasonal conditions to a holiday occupancy condition.

Concerns over Control

As occupancy periods have extended toward a full 12-month season there have been natural concerns over potential abuses of the planning system, where occupiers might try to live residentially in holiday accommodation. This has sometimes occurred where historic planning permissions have been insufficiently precise and there have of course been instances of deliberate abuse of the planning system. However, for the most part, both seasonal and holiday occupancy conditions have worked well to deliver and retain holiday accommodation throughout the country.

From the standpoint of holiday caravan developments, it must be appreciated that the combination of both planning and site licence conditions does help to ensure stronger management and control. The operation of a caravan site not only requires a planning permission for the use of land, but also a licence from the Environmental Health Department which sets out a range of conditions that are required in order to deliver appropriate environmental health standards. These are wide ranging and although authorities have discretion to apply any condition that they think fit, such conditions must be in accordance with the ministers Model Standards that are appropriate for the particular type of caravan site being provided.

Circular 14/89 sets out the Model Standards that are appropriate for static holiday caravan sites. These represent the standards normally to be expected as a matter of good practice. There are separate Model Standards for residential caravan sites, which have been amended in recent years (Model Standards for Caravan Sites in England 2008). The 2008 standards may also apply where there are a mix of residential and holiday caravans unless the caravans have been set out in distinct areas of a caravan park where separate licenses can be issued.

The important points to note here are that if a holiday caravan becomes residential (through breach of the seasonal or holiday occupancy conditions) it could place the caravan site technically in breach of the site licence, as well as being in breach of planning control. The former situation is directly actionable through the County Courts and the latter by way of enforcement action. In addition, such a situation could introduce the implied terms of the Mobile Homes Act; giving rise to a further range of contractual complications. Caravan Park Operators are therefore very mindful of these potential pitfalls and seek to positively control their park occupation through contractual means and by way of park rules. These issues are discussed further below.



What Distinguishes a Holiday from a Residential Use?

There are a number of potential differentiations between a holiday and residential use of a caravan or chalet, but the principle distinguishing feature is that the holiday accommodation should not be that persons' only or main residence. That is to say, their holiday accommodation is not the property in which they would normally reside to the extent that it could be described as their "home".

For example, a persons' residential property will attract Council Tax, whereas a caravan or chalet within a holiday park will attract Uniform Business Rates as part of the commercial enterprise in which the property is situated.

The residential property may be the location at which a person is registered to vote and, where families are concerned, will be the location from which children normally attend school. The caravan or chalet should not be a registered postal address and should not be used as an address for registering, claiming or receipt of any state benefit. In addition, no caravan or chalet should be occupied in any manner, which might cause the occupation to be (or to become) a protected tenancy within the meaning of the Rent Acts 1968 and 1974.

For those who have semi or fully retired, their use of a caravan or chalet may extend over the whole season even though their main residence is elsewhere. This is perfectly acceptable so long as they can demonstrate that their main residence is legitimate and accords with the various matters outlined above. For those who suggest that they might move out of their caravan or chalet during the closed season to temporary accommodation and then return, this clearly does not satisfy the "only or main residence" test. This would simply be moving from one temporary/holiday accommodation to another of the same kind.

To belt and brace the matter, many park operators apply contractual terms which have been produced by the British Holiday and Home Parks Association (BHHPA).

In particular, paragraph 3.8 of the contract notes the following in respect of tenant obligations:-

"To use the unit as accommodation for holiday and recreational purposes only and not as your main or permanent residence. You acknowledge that if we have reasonable grounds to believe that you are in breach of this condition, we have the right to terminate this agreement forthwith. You agree to produce to us in response to a written request satisfactory proof that your main residence is at the address registered with us, such as a council tax bill, utility bill or driving licence in your name. You agree to inform us in writing of any change of your address."

This is important in business terms not only for the reasons already outlined above, but also because of the potential difficulties associated with the interaction of holidaymakers with residential occupiers that might arise. The level of residential paraphernalia and degree of permanence of occupation will also have an impact upon the appearance and perception of the holiday park that could be detrimental to their business enterprise if allowed to occur.

How has this matter been dealt with on appeal?

There have been a large number of planning consents granted over the last 20 or so years emanating from the guidance in *Planning Policy Guidance Note 21: Tourism* and subsequently the good practice guide. However, the matter has also been tested on appeal and some recent decisions are set out below for information.

- **APP/W1335/A/07/2034354 (28 November 2007)**

Craggwood Caravan Park, Golden Lane, Ramshaw, Bishop Auckland DL14 0NS

In allowing this appeal for an extension of holiday season the inspector noted that:-

"Craggwood is located in attractive open countryside, close to facilities in Ramshaw and Evenwood. In my opinion, there is potential for the caravans to be used as permanent residences, so that controls as to their use are still necessary. At the hearing, it was agreed that any new conditions should require that the caravans should be holiday purposes and not permanent residences and that there should be means of monitoring and enforcement. The condition I have imposed reflects these aims as well as being advice in circular 11/95".

The condition imposed was as follows:-

"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 operators of the caravan park shall maintain an up-to-date register of the names of all owners of caravans on the site and of their main home addresses and shall make this information available at all reasonable times to the local planning authority".

In essence, the seasonal occupancy period condition was removed in its entirety to be replaced by a holiday occupancy condition.

- **APP/P1615/A/09/2103429 (25 January 2010)**

Whitecliff Holiday Lodges, Whitecliff, Coleford, Gloucs GL16 8NP

In allowing the appeal and granting planning permission for the erection of 22 holiday lodges, the inspector applied the following condition:-

"The lodges 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 shall maintain and up-to-date register of the names of all owners-occupiers of individual lodges 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 inspector noted that:-

"In this case as the site would comprise solely of holiday lodges, coupled with the nature and design of the lodges themselves, their use as permanent residential occupation is in my view less likely than, for example, the conversion of more permanent, isolated or individual units unrelated to a holiday park. I am satisfied that the condition that I have attached is capable of ensuring that the lodges within the holiday Park are not occupied as permanent residential accommodation".

- **APP/C9499/A/09/2117805 (19th March 2010)**

Hawswick Cote Caravan Park, Hawswick, Skipton, North Yorkshire BD23 5PX

A seasonal occupancy condition allowed use of this holiday park between 1st March and 14th November in any year. The appellant sought use of land as a caravan park without complying with this condition. The park lies within the Yorkshire Dales National Park.

In allowing the appeal the inspector noted the following:-



Control over permanent residential occupancy

10. Given national, regional and local policy to protect the countryside and to ensure sustainable patterns of development, I accept that controls to prevent all year round occupancy are essential. The condition in dispute achieves that, by preventing occupancy between mid November and the beginning of March.

11. However, that condition, in my view, unduly restricts occupancy in an era of changing holiday trends towards short stay breaks outside the traditional holiday season – a trend, which is recognized in national policy guidance. In addition, at a regional level, the Yorkshire and Humber Plan (RSS) includes Policy E6, which seeks to promote, support and encourage tourism by, among other things, making best use of existing tourism infrastructure. The appeal proposals would do exactly that and, in my view, is, in principle, acceptable, provided that a mechanism exists to prevent permanent residential occupancy.

12. The appellants have drawn my attention to conditions set out in Annex B in the 'Good Practice Guide on Planning for Tourism' which can secure this. Having regard to advice in Circular 11/95, I consider that such conditions would be appropriate in this instance and note that similar conditions have been used by Inspectors in appeal decisions, to which my attention has been drawn. I do not share the NPA's concern that such conditions would be difficult to monitor or enforce.

13. I therefore conclude that permanent residential occupancy could be satisfactorily controlled in ways, other than by the condition in dispute.

The seasonal occupancy period condition was removed in its entirety to be replaced by a holiday occupancy condition and subject to the maintenance of a register of caravan owners names and main home addresses.

- **APP/E2340/A/10/2137243 (19th January 2011)**
Forest of Bowland Leisure Park, Roughlee, Nelson, BB9 6NR

Here again a seasonal occupancy period was in operation and the appellant sought approval for year round use of the park.

The inspector concluded inter alia that:

11. I consider that condition 1 should be replaced with a standard holiday occupancy condition, drafted in accordance with the GPGPT, which expressly states that caravans on the site shall only be used for holiday purposes and not as a person's main or sole place of residence. Such a condition would suffice to prevent any permanent residential use. It is not necessary to also require that the caravans be unoccupied for four week consecutive periods – and imposing such a condition would in my view place an unreasonable restriction on the appellant.

12. I also consider it unnecessary to limit occupation of the caravans to 11 months of the year. The Council have given little explanation for this part of condition 1, save that it would "emphasis the holiday nature of the units". The council is not seeking to control when any caravan should be unoccupied. The appellant does not object to the 11 month clause, but C11/95 advises that agreement to a condition does not make it reasonable. Since a holiday occupancy condition would prevent the use of the caravans as permanent dwellings, the Council's key objective – I find that the other occupancy constraints could not be justified.

- **APP/P2365/A/11/2146532 (7th June 2011)**

Woodlands Caravan Park, The Marshes Lane, Mere Brow, Preston PR4 6JS

In this case, a seasonal occupancy condition was already in place for an extended season that provided, *"None of the caravans shall be occupied in any way between first February and 13th February in any calendar year"*. The appellant sought use of land as a caravan park without complying with this condition.

In allowing the appeal the Inspector noted that:

6. The prevention of the use of holiday caravans as permanent housing is addressed in Annex B of the DCLG document 'Good Practice Guide on Planning for Tourism'. It acknowledges that there may be good reason to prevent the use of holiday caravan sites as permanent housing, and states that this can be achieved through the use of occupancy conditions designed to ensure that holiday accommodation is used only for its intended purpose. The document highlights a form of condition which specifies use for holiday purposes only, requires that the caravans shall not be occupied as a person's sole or main residence, and requires owner/operators to maintain a register of caravan occupiers, and of their main home addresses. It does not recognise the need for a formal period of closure.

"The annual period of closure of the site was reduced from eight weeks to the present two weeks following an appeal (APP/P2365/A/08/2082079) in 2008. In his decision the inspector argued that, whether the closed period was eight weeks or two weeks, the characteristics of holiday use during the remainder of the year would be likely to be the same. I agree with this view. No evidence of any problem arising from this decision, from the 2009 decision to allow five caravans on a year-round basis, or likely to arise from the current proposal, has been presented.

In applying conditions the inspector considered:-

"A condition limiting the use of the caravans to holiday use only, as described above, is needed to prevent the use of the site for permanent housing. To underscore the importance of this matter, the condition attached by the previous inspector requiring a site notice drawing attention to the restricted use of the caravans should also be re-imposed. Subject to these conditions, the appeal is allowed".

He went on to apply a holiday occupancy condition only, together with the maintenance of an up-to-date register on the same terms as set out in the previous appeals referred to above.

- **APP/J1860/A/11/2165323 (19 March 2012)**

Coppice Leisure Park, Ockeridge, Wichford, Worcester WR6 6YP

Here again the appeal considered variation of a planning condition which imposed a seasonal occupancy period with one-month closure between 15th January and 15th February in any calendar year.

In addition to the disputed seasonal occupancy condition there were already two other conditions that required caravans to be used only for holiday accommodation and not for any residential use and that a register be maintained.

The inspector concluded that:-

"In this instance the evidence is that conditions 4 and 6 would be sufficient to ensure that these caravans would not be occupied on a permanent basis and that the disputed condition is unnecessary. Lifting the disputed condition would not, therefore, compromise the aims of policies PS3, DS 14 and EP 14 of the Malvern Hills District Local Plan in so far as they seek to avoid unsustainable development in the countryside".

A costs application was successfully made in this instance.

- **APP/A6835/A/12/2169310 (2nd July 2012)**
Caerwys Caravan Park, Caerwys Hill, Caerwys, Mold

In allowing the appeal - to vary a condition to permit year round use the park - the Inspector found that:

7. Overall, I consider that the periodic occupation of the site on a year round basis is not the same thing as permanent occupation and conclude that the levels of occupation and the associated activity would not lead to a perception of permanent residential occupation. The impact of the site comes more from the permanence of the structures within it and I consider that year round use would not alter its impact on the landscape or the nearby AONB. Moreover, the year round activity on the site would not change its physical relationship with the adjacent settlement nor lead to a greater sense of coalescence.

A costs application was successfully made in this instance.

- **Yorkshire Dales National Park Authority (Application No. S/03/553)**
Cross Hall Caravan Park, Sedbergh

Permission granted on application for, "full planning permission for extending opening season to 11 months (1st March to 31st January")

It should be noted that in none of these cases was it considered or found necessary to introduce a section 106 agreement in addition to any planning conditions.

Summary

There have been a variety of independent considerations on appeal of the Circular and planning guidance which have concluded that sufficient controls are available to ensure holiday occupancy of caravans and chalets can be maintained; even where the seasonal occupancy period is removed entirely and occupation takes place throughout the year.

ANNEX B

Seasonal and Holiday Occupancy Conditions

1. The nature of holidays in this country has become increasingly diverse, in location, in season and in duration. Many people go away several times a year, often for short breaks and not exclusively in the summer months. Much of this demand is for self-catering accommodation – whether in new or converted buildings or in caravan holiday homes. This spread of demand improves the use that is made of this accommodation and so is advantageous to the businesses which provide it and to those host communities which are supported by the spending that it generates. It can help to reduce the disadvantages of seasonal employment, including the difficulties of retaining trained and experienced staff.
2. Whilst extension of the season has these advantages, the demand for this accommodation may occur in areas in which the provision of permanent housing would be contrary to national or local policies which seek to restrict development, for example in order to safeguard the countryside. The planning system can reconcile these two objectives through the use of occupancy conditions designed to ensure that holiday accommodation is used for its intended purpose. Planning authorities commonly impose such conditions when granting permission for self-catering holiday accommodation. Chapter 6 above explains the general use of conditions with planning permissions.
3. One type of condition frequently used for holiday accommodation, particularly in holiday areas, is known generically as a ‘holiday occupancy condition’. The aim of such conditions is generally to ensure that the premises are only used by visitors and do not become part of the local housing stock. There are three principal reasons why a planning authority might seek to do this:
 - in order that national or local policies on development of the countryside are not compromised. Often the conversion of redundant rural buildings to holiday accommodation provides a means to retain those buildings without introducing a level of activity that would occur with permanent households;
 - to avoid occupation by permanent households which would in turn put pressure upon local services. Permanent households may place demands for local schools and social and health services that would not normally arise from visitors. Moreover, in remote locations the cost of providing these services is greater. It may therefore be reasonable for the planning authority to place an occupancy condition when properties are being built or converted for residential use; and
 - to strengthen tourism in a particular area by ensuring that there is a wide range of properties available to encourage visitors to come there on holiday.

Planning authorities will frame these conditions according to local circumstances, and in accordance with general Government advice that conditions should be reasonable and fair. They will also need to frame them so that they can be readily enforced by the authority but in a way that is not unduly intrusive for either owners or occupants.

Controlling use of holiday caravan and other holiday park accommodation

East Riding of Yorkshire Council established a joint working group to establish the best approach to secure holiday use of caravan parks. This group comprised councillors and council officers; representatives from the British Holiday and Homes Parks Association Ltd; the park operators and their agents; and the caravan manufacturers. It concluded that planning conditions needed to be stronger, requiring documentary evidence of occupiers maintaining a primary residency elsewhere to be provided.

As a result the planning committee agreed that future planning permissions for holiday caravan parks, holiday log cabins and holiday chalets shall normally be subject to the following conditions:

- (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.

4. Another type of condition that may be appropriate for tourist areas is known as a 'seasonal occupancy' condition. This would seek to restrict use of holiday accommodation during particular times of year, perhaps to protect the local environment. This could be used if, for example, use of the premises or the site might affect an important species of bird during its breeding season or when it is winter feeding. Local planning authorities will need to balance the need to impose seasonal occupancy conditions with the wish to avoid exacerbating the seasonal nature of tourism in the locality and its possible adverse effects upon local businesses and jobs.