

Planning Statement

**Section 73 application for variation of condition
5 of planning permission 89/E/1186 (89NP0072)
to allow year-round holiday occupancy only of
lodge 14**

**Otterburn Hall Estate, Otterburn, Newcastle
upon Tyne, NE19 1HE**

**Prepared by
R & K Wood Planning LLP**

**On behalf of
Lodge Owner**

February 2019



Introduction

- 1.1 This statement is prepared as part of a section 73 application relating to lodge 14 at Otterburn Hall, Otterburn. This statement is provided in order to provide a clear explanation of the purpose of the variation application and the revised wording of the condition which is sought to be put in place going forward. This statement will also provide further information in relation to the context of this application within the wider lodge site and more recent permissions relating to lodges outwith this original planning permission.

Site History

- 1.2 This section 73 application relates to lodge 14 at Otterburn Hall which is located at the south east corner of the site. The lodge was first granted permission in 1987 as one of two 4-bedroom chalets designed to serve Otterburn Hall (87/E/417). Subsequent to that grant of consent a further application was made in 1989 which sought the revised siting of these 2 chalets. That permission ref 89/E1186 granted permission for the revised siting of 2 holiday chalets at Otterburn Hall. As part of that consent an occupancy restriction was included (condition 5) which stated that *the chalet units here permitted shall not be regularly occupied between 1st November in one year and 1st March in the following year*. Lodge 14 was developed as part of this permission and remains on site today.
- 1.3 The rest of the lodges on the site were developed through a mix of old and new permissions. This original permission for development of the site dates from 1988 ref 87E419. That permission originally granted consent for the siting of 13 static caravans and 22 chalets at Otterburn Hall, Otterburn as amended by a plan submitted on 26 January 1988. That permission included a condition (condition 7) which stated that:

‘The static caravan and chalet units here approved, shall not be regularly occupied between 1st November in one year and 1st March in the following year’

That condition was subsequently varied through a 1993 permission which was 93NP0009. That approval put in place a revised condition 7 which stated that:

'The chalet units here approved shall not be occupied for any purpose between 15 January and 15 February in any year'

- 1.4 Ultimately only 19 of the lodges originally granted permission through the 1988 and subsequent 1993 permission were developed. These lodges were developed in compliance with the original permissions in a group at the north west of the site. The remaining lodges were not however ultimately developed under that permission due to changes which were sought to be implemented in relation to the detailed siting and design of the lodges which differed from that original approved. It is therefore the case that outwith these original 19 lodges, subsequent lodges developed on site were developed as a result of gaining new planning approvals for each individual lodges development. These lodges which can be viewed as being the 'modern permission' lodges are located along the southern boundary of the site and in a group to the east of the site located around the eastern turning head. These new permissions were the subject of a revised occupancy condition and this occupancy condition states that

'The lodge hereby approved shall be occupied for holiday purposes only, shall not be occupied as a persons sole or main place of residences or for any purpose between 15 January and 15 February in any year.'

- 1.5 Applications are currently with the LPA which seek the variation of the occupancy conditions relating to both the old lodges and the lodges developed under newer permissions which propose the same occupancy condition as now proposed for lodge 14.

[Background to the Application](#)

- 1.6 This application is brought forward in order to vary the existing occupancy condition in the context of a number of similar applications which relate to the majority of lodges on the site. Parallel applications are being submitted for all lodges which have consent under both new permissions, as well as variation

of all the lodges with old permissions with the exception of just 3 lodges. At present across the site there are effectively two different conditions which can be found on any of the lodges, in addition to the condition 5 present in relation to lodge 14. For the old permission lodges the condition effectively allows unfettered residential occupation albeit with a requirement for occupancy to cease during a 1-month period between 15 January and 15 February. For lodges such as this one with a modern permission the condition has a similar restriction in respect of preventing occupancy between 15 January and 15 February, but with the additional clarification that the lodges should be occupied for holiday purposes only and should not be a persons sole or main place of residence.

- 1.7 For all the lodges which are the subject to applications, including this one, the need to vary the application has arisen due in large part to the need for lodge owners to seek greater flexibility in order to allow year-round holiday occupation of the lodges. This lodge and all the other lodges, which are the subject of the applications, are now rented for holiday purposes on a weekend or weekly basis and as a result of this the necessity for the break in occupancy in this case from 1 November to 1 March in any year has been superseded. What must be borne in mind is that the explicit purpose of that cessation of occupancy for the prescribed period was put in place in order to specifically prevent lodges being occupied as permanent residential dwellings. It served no other purpose. In this context the condition which applies to this lodge unnecessarily prevents holiday use during this prescribed period.
- 1.8 In practical terms it is noted that the restriction on occupancy therefore unnecessarily removes the opportunity for lodges to be rented out for holiday purposes when in fact there is a ready market for lettings during this period. This is a result of the attractive nature of the Northumberland area for tourist visits and also in relation to Otterburn for the provision of accommodation capable of serving the significantly increased number of visitors visiting the village and surrounding area for the purposes of weddings. It should also be noted, that this period which prevents occupancy also often falls within the school half term period which as a result unnecessarily removes potential visitor spend within the local economy. The issue of this one-month occupancy restriction is also known to have caused issues for the LPA in terms of enforcement monitoring due to an ambiguous position in relation to

what may or may not be considered occupancy with reference to activities such as lodge maintenance etc. In order to resolve all these issues both for lodge owners in respect of the ability to rent their lodges year-round and for the LPA in order to have clarity and a consistent condition across the majority of the site, it has therefore been concluded in consultation with all the relevant lodge owners that it is expedient and sensible to make the applications now proposed.

Proposed Wording of Varied Occupancy Condition

- 1.9 Any section 73 variation application requires an applicant to propose wording for the condition that they seek to be put in place as a replacement for the condition in question. It can be noted however that an LPA can, with the agreement of the applicant in any application propose an amended worded condition if, through this amendment, it addresses any concerns in respect of the proposed wording whilst still maintaining the purpose of the applicant's submission.
- 1.10 The application therefore formally proposes that the existing occupancy condition be replaced by a modern up to date holiday occupancy condition worded as follows:

'The chalet hereby approved relates to the provision of short-term accommodation only and shall not be used at any time as permanent residential accommodation. Occupiers of the approved accommodation shall occupy this for holiday purposes only and shall not occupy this as their sole or main place of residence, or as a second home. The operators shall maintain an up to date register of the names of all occupiers of the holiday accommodation hereby approved and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.'

- 1.11 This condition is a widely adopted condition which is already used by the Local Planning Authority. As such the wording is not considered to be

unusual or contentious and is fully consistent with conditions used by the Authority.

Assessment of Proposed Variation

1.12 In relation to the impact of the proposals it can be seen that in reality there would be no change in the impact of the operation of the site given that it already effectively operates for holiday purposes anyway. The condition as proposed would also deliver significant benefits to the LPA in terms of delivering uniformity and enforceability over the site in a manner which currently does not exist. In particular, the compliance with the conditions could be monitored much more easily by reference to the records which would have to be kept of occupancy as required by the condition. The lodges in question are all rented on a professional basis with full records kept by either the owners or their letting agents and in this respect records of occupancy in line with the condition could much more easily be obtained. At present, this facility does not exist under the terms of the current conditions. It is considered that the introduction of this uniformity over the majority of the lodges in the form of an up to date and modern condition is a significant benefit to the LPA which must be afforded weight in the consideration of the application. The proposed change will also help to deliver wider economic benefits for the local rural economy in line with Para 83/84 of the NPPF for the reasons set out in paragraph 1.5 of this statement.

1.13 Turning to the tests as prescribed in the NPPF, it can be seen that the revised worded condition as proposed complies with all of the 6 tests. These 6 tests are that the condition is:

- 1) Necessary
- 2) Relevant to planning
- 3) For the development to be permitted
- 4) Enforceable
- 5) Precised
- 6) Reasonable in all other respects.

1.14 It can be seen that the condition as now proposed is clearly necessary in order to ensure that the lodges are not occupied as primary residential

dwellings. The condition is clearly relevant to planning and this is reflected in the fact that occupancy conditions have always been imposed on this site and continue to be of relevance to this form of development in this type of location. This assessment also applies to test 3. In relation to test 4 and the enforceability of the condition, as detailed the condition wording in its amended form is based on a modern and up to date holiday occupancy condition which is already used by the LPA. That wording in itself is also of a standardised type which can be found applied to holiday accommodation throughout the country. It is also a condition which is regularly used by Inspectors within planning appeals. As such the wording of the condition is one which is established and is clearly rigorous and enforceable, particularly with regard to the requirement for records of occupation to be kept and made available to the LPA. Given the standardised nature of the revised wording it is considered to be clearly the case that the condition is enforceable. The condition as proposed is also precise, both in relation to its content and the lodges to which it relates. The wording as detailed above is very standardised and therefore given its widespread use must be considered to be of sufficient precision to avoid any potential ambiguity. Finally, it is considered that the condition is reasonable in all other respects and specifically with regard to the fact that it does impose what may be considered more onerous requirements on the owners of the lodge. i.e. provision of letting records to LPA. As detailed, all owners of the lodge are fully aware of the implications of this varied condition and as such have accepted the condition would be worded in this form by virtue of the fact that they make in the application in the form proposed.

Conclusion

- 1.15 This statement has set out the details of the application site and the lodge to which this application relates. This statement has provided a context for the assessment of the application by reference to the planning history and also the purpose of the revised occupancy condition now being brought forward. It is considered that the proposal delivers benefits to both the applicants and also the LPA in respect of bringing forward modern up to date and enforceable conditions for the majority of the site. The proposed condition fully maintains any restrictions which exist at present in relation to preventing occupancy of lodges as prime residential dwellings whilst also delivering

workable modern conditions which fit with the manner in which the majority of the lodges are being operated. We therefore consider that the proposal is fully compliant with relevant core strategy and NPPF policy and would therefore request that the condition is varied in the terms set out.