CASE OFFICER'S REPORT

Application Reference:	PL/2023/05112
Application Type:	Removal/variation of conditions
Site Inspection:	
Consultation ends:	06 December 2023
Case officer:	Callan Powers

Site Address:	Cirencester Waterski Club, Manor Farm Lake 37, Cotswold Water park, Spine Road West, Cirencester, GL7 6TL
Proposal:	Variation of Condition 4 of N/97/02518/S73 for a proposed change in the period of use of caravans for overnight accommodation, relaxing the usage limitation from April-September to February-December
Recommendation:	Approve with Conditions

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POLICIES
National Planning Policy Framework December 2023 Paras 2, 11, 38, 47, 56, 88, 89, 123
Wiltshire Core Strategy Jan 2015 CP39 CP50 CP51 CP54 CP57
Ashton Keynes Neighbourhood Plan May 2017
ISSUES
Principle of development
Ecology
Impact on residential amenity
REPRESENTATIONS
Neighbour Representations – None received.
Ashton Keynes Parish Council – No objection.

Ecology – No objection.

Natural England – No objection.

Public Protection – No objection.

SITE DESCRIPTION
The application site comprises land associated with the Cirencester Waterski Club, an organisation centred around a lake forming part of the Cotswold Water Park. As part of the enterprise of the waterski club, the site includes provision of caravan accommodation for overnight stays.

The lake used for waterskiing is close to 1km in length and forms part of the Cotswold Water Park Site of Special Scientific Interest (SSSI); it also lies within the 8km zone of influence for the North Meadow Special Area of Conservation (SAC). The site is not affected by any heritage designations.

Relevant planning history

13/03397/VAR: Removal of Condition 9 on Planning Permission N/11/01942/FUL (Change of Use of Land to Create Caravan Pitches). Allowed at Appeal (APP/Y3940/A/13/2209859) 13 March 2014

The condition above, removed from Permission No. N/11/01942/FUL, related to the provision of a management scheme seeking details of maintenance works to be carried out to existing buildings and the removal of unauthorised structures.

N/12/03358/S73: Removal of Condition 3 – Change of Use of Land to Create 5 Additional Touring Caravan Pitches – Increasing the Number on Site from 32 to 37. Variation approved 26 February 2013

Condition 3 related to the positioning of caravans at the site, which were expected to be removed outside of the summer months and relocated to a designated holding part of the site. Rather than removal as requested, the decision was made to vary the condition so that the caravans, which could now remain in situ, could not be occupied outside of the summer months.

N/11/01942/FUL: Change of Use of Land to Create 5 Additional Touring Caravan Pitches – Increasing the Number on Site from 32 to 37. Approved 09 August 2011

N/07/02542/COU: Stationing of eight additional caravan spaces. Approved 15 November 2007

N/03/01843/S73A: Variation of Condition 1 of N.96.2025.F to allow additional 24 months for completion of works. Approved 20 August 2003

N/02/01300/S73A: Variation of Condition 1 applied to planning permission N.96.2025.F to allow additional 12 months for completion of works. Approved 07 August 2002

N/97/02518/S73: Siting of additional 6 caravans variation of condition 2 pursuant to N.95.1160 – Restricting the number of caravans to 18 pitches. Approved 16 February 1998

N/96/02025/FUL: Construction of dividing bund and part infilling of lake to provide amenity and parking areas. Approved 29 November 1996

N/95/01160/S73: Renewal of Permission N/92/0287/CM – Retention of 18 caravans adjacent to Lake 37. Approved 21 August 1995

N/94/02171/FUL: Construction of a dividing bund in Lake 37 and the infilling of part of the eastern bank to provide an amenity and parking bund. Approved 24 November 1994

N/92/00287/CM: Additional 10 caravan places plus 2 temporary places and resiting existing caravans. Approved 13 March 1992

N/90/01116/FUL: Temporary permission for 21 additional caravans including the repositioning of 4 existing caravans. Approved 16 July 1990

N/88/00957/FUL: Use of lake for water ski-ing and extension to clubhouse. Approved 27 June 1988

N/83/02139/F: Renewal of temporary planning permission for use of lake for water skiing, together with clubhouse and occasional caravan site. Approved
12 March 1985

N/80/01750/F: Retaining building and works and continue use of land permitted under N/79/00002/F without complying with condition no. 4 (use of public address system for water skiing for one weekend per year). Approved 16 January 1981

N/79/01865: Variation of condition no. 6 as attached to Application No. N/79/00002 to permit water ski-ing between 8.30 am and 9.30 pm. Approved 17 January 1980

THE PROPOSAL
This application seeks to vary a condition (No. 4) attached to Planning Permission No. N/97/02518/S73. This condition as previously imposed restricts use of caravans at the site for parts of the year; these are required to be removed between the months of October and March inclusive. A pre-existing variation of a later condition omits the requirement for the caravans removal, requiring instead that the caravans are not occupied for the relevant period. The proposed variation would allow their use for 11 months of the year.

ASSESSMENT:
Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); the Wiltshire Housing Site Allocations Plan (WHSAP) (adopted February 2020) and the Ashton Keynes Neighbourhood Plan (Made May 2017).

Section 73 of the Town and Country Planning Act 1990 allows for applications for development without complying with conditions subject to which planning permission has previously been granted. On such an application the local planning authority may consider only the question of the conditions subject to which planning permission has been granted and should approve the application if satisfied that the permission should be granted subject to conditions differing from those originally imposed, or otherwise refuse the application should it be determined that the permission should remain subject to those conditions.

Principle of development
The site is within the countryside, where new development will not normally be supported other than in accordance with specified exceptions set out in the development plan. Nevertheless, the site is an existing development, and the proposal to vary a condition attached to the planning permission granted in respect of accommodations for the waterski club does not re-open the principle in respect of that existing use.

Core Policy 54 of the WCS, a policy focused on managing development in the Cotswold Water Park, sets out that *"proposals for water-based sports… will be supported where they help transform the area to an informal recreation and leisure resource for Wiltshire residents and visitors…"*. This policy therefore lends support to development that does so, subject to the following criteria:

"i. Increase or enhance public accessibility and enjoyment of the lakes and countryside.
ii. Contribute towards the local economy in the Cotswold Water Park.
iii. Strengthen the local landscape character and engender a sense of place.
iv. Contribute towards enhancement of biodiversity within the Cotswold Water Park.
v. Retain the character of individual settlements including the tranquillity of their settings.
vi. Protect the Cotswold Water Park's built heritage, and enhance accessibility and interpretation of such features where possible.
vii. Demonstrate high levels of sustainability, particularly including sustainable building design, accessibility by sustainable transport modes and sustainable drainage systems."

The proposed development, in extending the availability of accommodation to cover the majority of the year, would improve access to the existing facility in this location in a sustainable manner.

Core Policy 39 of the WCS governs the provision of tourist development including tourist accommodation within Wiltshire. This allows for tourist accommodation in the countryside provide that, among other criteria, the facilities are in conjunction with a particular countryside attraction. In this case, the waterski club would itself qualify as an attraction sufficient to support the development. Whilst this justification would ordinarily result in a requirement that this dependency is borne out in the planning conditions, a new condition at this stage restricting occupancy to club members or waterski facility users would not meet the relevant tests for planning conditions.

Ecology
The ecological status of this site is of considerable import in the consideration of this proposal, given the site's location as part of the wide reaching Cotswold Water Park SSSI, as well as its relationship with the North Meadows Special Area of Conservation (SAC). These statutory designations mark the site out as having significant ecological sensitivity overall.

The SAC, which hosts a substantial proportion of a rare plant species (snakeshead fritillary) has come under significant pressure arising from the number of visitors resulting in a deterioration of the designated site. As a result, in a bid to alleviate this pressure, surrounding local authorities along with Natural England have agreed a strategy whereby new residential development and tourist development bringing new visitors to the area will be required to compensate for the deterioration of the SAC via financial obligations, intended to fund its ongoing protection and maintenance. This applies to an 8km zone of influence within which the site falls.

In this instance, the accommodation to be provided is to serve a specific purpose, with visitors using the lake as part of the waterskiing club. There is accordingly no evidence that the proposed development would increase visitor pressure on the SAC and therefore the usual requirement for an undertaking in this regard can reasonably be waived.

In terms of the management of the SSSI, the proposal would not directly affect the lake but rather the surrounding land, and in a manner that extends the length of time that established use takes

place across the year, rather than establishing wholly new development. Whilst there may consequently be a modest intensification of use of the lake, advice has been sought from Natural England, who have concluded that the proposed development will not damage the interest features for the SSSI unit. Accordingly there are no ecological objections to the development.

Impact on residential amenity

The site enjoys substantial separation from residential development. Whilst, therefore, it may be concluded that some modest intensification of the waterskiing lake may arise from increasing accommodation provision, this is unlikely to render a previously acceptable position no longer compatible with adjoining uses. Given this finding and in the absence of any local representations in objection to the development, no harm is considered to arise in this respect.

Impact on the landscape

The original condition was imposed for the stated reason of protecting the visual amenity of the area. However the existence of permission for stationing of the full number of caravans for most of the year means that the landscape impact of the overall development is already experienced during those times. In any event, in support of the use of the waterski club, which has proved a success in the decades following the original submission, it is accepted that the caravans form a vital part of that success. The site is not within a protected landscape, nor is it particularly susceptible to long distance views and the visual impact is predominantly limited to users of the facility. Accordingly it is considered that objection on landscape grounds would not be reasonable in this instance.

Conditions

The planning permission that the applicants seek to vary is an intermediate part of a lengthy planning history at the site. A number of site circumstances have changed since the imposition of the condition that has been raised as part of the application. Accordingly the conditions imposed on any new permission should be up-to-date. Nevertheless any new condition should not contradict the description of development from the original permission as to do so would conflict with the finding of the Court of Appeal in the *Finney* judgement that section 73 cannot be used to vary a condition in such a way as to depart from the operative part of the permission, that being the description of the development.

It is not considered necessary to specify the number of caravans to be kept at the site, as this remains restricted to 37 by Permission No. N/11/01942/FUL owing to the description of development in that case and also the details on the approved plans. To reiterate this in a new condition would be unnecessary and would contradict the original description. It is therefore proposed that the condition only refers to the time-related restriction.

It is also not necessary to restate conditions setting out the expiry of the condition (given that the development has long since been commenced and is in operation) or one relating the permission back to the permission in 1995.

Conclusions

The proposal seeks to extend the availability of accommodation into much of the remainder of the year, allowing a greater number of the waterski club's visitors to overnight at the club in pursuit of their hobby for more of the year. This use is not considered likely to impact on the nearby North

Meadow SAC and nor, following receipt of Natural England advice, is significant impact on the SSSI expected. There are no other significant concerns in respect of this development.

It is therefore considered that the planning permission should be granted subject to conditions differing from those originally imposed on the earlier permission. Accordingly it is recommended that the application be approved in accordance with the requirements of section 73 of the Act.

RECOMMENDATION:
Permission subject to conditions.

Conditions: (3)

1 This permission shall enure for the benefit of the Cirencester Waterski Club only and not for the benefit of the land nor any other club, person, persons, or company, whether or not having an interest in the land.

REASON: To ensure that the use of the site as a caravan site remains associated with the use of Lake 37 for water skiing and under the control of the club.

2 No caravan at the site shall be occupied in the month of January of any year.

REASON: For the purposes of amenity and in support of the general overarching principles of sustainable development that are enshrined in the development plan and in national policy.

3 No caravan at the site shall be used as permanent residential accommodation or as a main residence for any part of the year.

REASON: In support of the overall principles of sustainable development and to avoid the creation of new dwellings in the countryside contrary to the strategies of the development plan and national policy.

Informatives: (2)

4 Any alterations to the approved plans, brought about by compliance with Building

Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

5 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.