

HCS99
National Assembly for Wales
Communities, Equality and Local Government Committee
Holiday Caravan Sites (Wales) Bill
Response from: Park Dean

Parkdean
24 Award Winning UK Holiday Parks

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23 May 2014

Community Clerk
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

By email to: CELG.committee@wales.gov.uk

Dear Sirs,

CONSULTATION ON THE HOLIDAY CARAVAN SITES (WALES) BILL (THE "CONSULTATION")

We enclose our response to the Communities, Equality and Local Government Committee's letter of 28 March 2014.

If the Committee requires any further evidence or a further explanation of any of the points that we raise we would be happy to supply this.

Yours faithfully,



Judith Archibold
Legal and Corporate Services Director
on behalf of Parkdean Holidays

23 May 2014

To: Communities, Equality and Local Government Committee,
National Assembly for Wales
By email to: CELG.committee@wales.gov.uk

CONSULTATION ON THE HOLIDAY CARAVAN SITES (WALES) BILL (THE "CONSULTATION")

1. Parkdean is a UK holiday park operator with 24 holiday parks, two of which are in Wales - Trecco Bay Holiday Park in Porthcawl and Pendine Sands Holiday Park in Carmarthenshire. We have 2,492 pitches on our Welsh parks, 1,917 at Trecco Bay and 575 at Pendine Sands. Of these, 1488 pitches (Trecco) and 459 (Pendine) are occupied by holiday home owners and 407 (Trecco) and 103 (Pendine) by Parkdean owned hire fleet which Parkdean hires for short term holidays. Trecco Bay is the largest caravan park in the UK and in our view probably the largest provider of tourism bed nights in Wales, operating for 46 weeks of the year with significant growth under our ownership since November 1999. The Park is a key driver to the local tourism led economy in Porthcawl and the wider Bridgend County and surrounding area.
2. In its last financial year Parkdean had a turnover of over £130 million of which around £31m related to its Welsh parks. Parkdean's Welsh parks directly employ over 370 people in Wales over the peak summer period as well as using the services of a significant number of other sub-contractors within their respective local communities. They make a material contribution to their local economy and the sector plays an important part in the tourism and leisure industry generally in Wales providing the majority of tourism bed night available. The impact of this bill on tourism spend hasn't in our opinion been fully considered.
3. Parkdean is a member of the National Caravan Council (NCC) and the British Holiday & Home Park Association (BH&HPA) and of the NCC Approved Holiday Park Holiday Home Ownership Scheme (the NCC Approved Scheme). Parkdean endorses the comments made in the responses to the Committee from the NCC and BH&HPA and therefore we haven't focused on the points made in their submissions.
4. Parkdean recognises the principle aims of the bill which are to prevent holiday home owners using holiday homes on holiday parks as their permanent residences and the updating of site licensing legislation. We have concerns that the bill is unnecessary and that there is insufficient evidence of any widespread issue in relation to residency across Wales on holiday caravan parks to warrant its introduction.
5. We are absolutely committed to raising standards and treating holiday homes owners fairly and were a founder member of the NCC Approved Scheme. However we believe the bill fails to deliver on this.
6. The bill does not recognise the fundamental differences between residential parks and holiday parks and also has the unintended consequence of placing the holiday park operator at a severe competitive disadvantage to other tourism sector operators both inside and outside Wales (and holiday park operators in England). It severely undermines the holiday park operator's ability to carry on business, have flexibility and imposes unjustified costs and red tape on the sector.
7. We have not seen evidence that existing consumer law is failing to protect customers on holiday parks or any reasons why the holiday park sector needs particular regulation when it is not proposed that other holiday accommodation providers - hotels, timeshare, self-catering cottage complexes, log cabin developments and holiday villages, whether providing holidays or long-term partial or full ownership of holiday properties or bonds, are subject to the same rules.

Summary

8. In relation to the proposed bill and general comments we have, there are 4 key items Parkdean wish to be given further specific consideration.
 - 8.1. The need for an annual residence test with each individual holiday home owner rather than a simple need to keep a current register of owners.
 - 8.2. An inability to use holiday homes as short term accommodation for specialist fixed-term employees such as entertainers or skilled catering employees, when competing tourism businesses including hotels and cruise operators don't have this restriction.
 - 8.3. The requirement for a potential home holiday purchaser to receive a written statement 28 days prior to entering into any agreement for the sale of a holiday home by an operator (which period can't be waived by agreement and which restriction doesn't apply to a distributor or private individual selling a caravan).
 - 8.4. The bill failing to recognise the difference between the residential park home sector and holiday park sector providing accommodation for holiday and short breaks by both holiday customers and holiday home owners.

Residence test (Part 3)

9. Parkdean agrees that holiday home owners on a holiday park should not occupy their home as a permanent or main residence and actively enforces this across the estate. However there has been no reliable, researched evidence produced to demonstrate that this is a widespread issue in Wales. The East Lindsey study that is referred to relates to a particular area within England (with 10% of the UK's caravan pitches) and a set of circumstances that is not replicated in Wales or indeed elsewhere in the UK. There is no such perceived issue that we are aware of for example in Cornwall, which is a much closer representation of the majority of caravan holiday parks in rural and coastal areas of Wales. The proposed annual residence test will result in administrative costs and time, disruption to the vast majority of law abiding holiday home owners, the potential breakdown in relationships between park operator and holiday home owner and possibly criminalising law abiding and/or vulnerable individuals.
10. Parkdean has over 1900 holiday home owners on its 2 Welsh parks. It maintains a current register of these owners and requires evidence of a permanent or main residence before selling any holiday home (and indeed the same test is applied when an owner wishes to change their registered address). If it believes an owner is occupying a holiday home as a permanent residence it takes action to deal with this. There are no holiday home owners in Wales on our parks registered for council tax (each pitch is subject to business rates and since 2000 Parkdean has paid over £6.7m in business rates at Trecco). We believe a general duty on a park operator to require proof of permanent residence prior to sale or change of residential address, an obligation to maintain a current register of owners' permanent addresses and an obligation to comply with the site licence which prevents holiday home owners occupying units as a permanent residence combine to provide a robust regulatory framework to deal with this issue and avoids the problems referred to above and further explained below.
11. We estimate that the cost to Parkdean of administering the annual test for a business would be in the region of £25,000-30,000 pa. Schedule 1 attached to this response sets out the calculation of the costs involved. Email while less expensive than post is not a viable way of communicating with our owners a significant number of whom are often reluctant or unable to use email.
12. We have received legal advice that the retention of some financial data could be viewed as disproportionate and open to challenge under data protection legislation. In any event for security reasons some details would have to be redacted before storage and the data regularly cleansed and destroyed and security enhanced, all with additional costs in terms of fees and time.

13. The majority of Parkdean's holiday home owners (as with other operators) are aged over 50 and often retired/nearing retirement. They buy a holiday home for leisure purposes and to relax and unwind. They will feel that annual demands for further verification (providing the same information on repeated occasions) to be unnecessary, unwarranted and would resent the intrusion into their leisure time. Based on our actual experience we could be looking at an initial response rate of less than 25%. There will be a significant minority who even after repeated chasing are unlikely to respond for example because of illness, family circumstances, absence from home due to holidays or inertia. Under the proposed legislation, genuine compliant holiday home owners such as these would fail the residence test and Parkdean would be required to notify the Local Authority even though there was no suggestion, other than a failure to return paperwork that such individuals were occupying as a main residence. This would inevitably lead to a breakdown in trust and confidence between park operator and holiday home owner and to law abiding individuals receiving penalties and in some extreme cases being criminalised.
14. The impact of the breakdown in trust and confidence between holiday home owner and operator will impact detrimentally on customers and will lead to owners leaving park and prospective owners choosing to buy elsewhere (either in England or on a park flouting the law) to avoid what they perceive as intrusive and unsupportive management.

Limitation on Use of Caravan Holiday Homes for Fixed term Specialist Employees

15. The bill would prevent Parkdean recruiting and retaining key employees. This is a real problem which hasn't been considered.
16. Like other competing tourism businesses Parkdean employs a large number (275 in Wales) of specialist seasonal employees such as entertainers on fixed term contracts. Of these a number are highly skilled specialist employees including entertainers and chefs who are typically employed on a 7-8 month contract. Parkdean has a 120 strong entertainment team across the UK of who 112 are seasonal employees. They are recruited across the UK via auditions. Currently there is an entertainment team of 14 at Trecco and 4 at Pendine who come from across the UK.
17. In order to recruit and retain such people and accommodate the shift patterns they are required to work (the typical pattern for an entertainer for example is 2 hours in the morning, an hour in the afternoon and from 6.30 to 11.00/11.30 pm in the evening) Parkdean must offer accommodation on park. Current drafting in the bill states that only an employee whose work makes it **necessary** to live on site would be permitted to do so. Therefore Parkdean could not provide the short term accommodation on park to its seasonal entertainment team and specialist chefs etc. This places holiday park operators in Wales at a real competitive disadvantage to other leisure operators e.g. holiday parks in England and cruise ships who are all free to and indeed do offer on-site accommodation. Resort and rural hotels consistently offer live-in positions to this type of employee on short-term (and often long-term) contracts – we simply wouldn't be able to compete for the same talent, reducing the quality of our offer to holiday customers with potential long-term implications for the competitiveness of our sector with other holiday operators.
18. We do recognise the need to restrict the use of holiday park accommodation for permanent employees and please note that our permanent employees do not live in caravan accommodation. We support the position in relation to wardens or managers being able to live in. However the bill doesn't recognise the difference between a large scale holiday park with 500 plus pitches which will have different requirements for short-term employees and a smaller park or touring and camping operation which may indeed offer no central facilities at all.
19. An ability, subject to agreement with the local authority on numbers to avoid abuse, to have a limited number of holiday homes available for use by short-term employees (who would need to

have proof of a UK home residential address) would be welcomed and a practical way of dealing with this.

Fit and proper person

20. We don't oppose the introduction of a fit and proper person test provided this is workable and in particular that it was made clear who the test applied to and took account of other vetting and approval processes a holiday park owner/operator had properly completed.

Holiday caravan agreements (Part 4)

21. Parkdean supports the requirement for all holiday home owners to have a written agreement.
22. The requirement for a potential holiday home purchaser to receive a written statement of terms 28 days before a sale (which, in the case of a holiday park owner selling a caravan on its own park to a customer cannot be shortened) will have a major detrimental impact on operators and fundamentally undermine the sector. Although the consequences may be unintentional this provision appears to demonstrate a lack of understanding of how the holiday park sector operates and differs from the residential park sector.
23. Consumers should be free to decide when they enter into an agreement. If they have an enforced 28 day delay before buying a holiday home a significant number will simply walk away and buy a holiday home in England or other holiday accommodation which they can buy without delay. A significant number of our owners currently come from outside Wales. Alternatively they could buy from a dealership or a private individual without any 28 day delay even though they would be entering into an agreement to site their caravan on a holiday park.
24. In virtually no other transaction is there an enforced 28 delay when both parties wish to complete earlier. A consumer may buy a car, motor home, boat, holiday cottage or complex financial products and enter into long term/complicated contractual agreements such as leases, loans and mortgages without a delay. Absolutely no reason has been put forward to demonstrate why the purchase of a holiday home for non-residential use needs to be treated differently from any other purchase. Nor is there an explanation or evidence why there is a distinction between a holiday park operator selling holiday homes caravans and other suppliers of holiday homes, when the consumer will be entering into exactly the same agreement to site a caravan at a park irrespective of whom the caravan is purchased from.
25. Existing consumer legislation including the Consumer Rights Bill coming into force in June (to be strengthened by the implementation of the Consumer Rights Directive) ensure the customer is protected and cooling off periods observed. In fact Parkdean offers a cooling off period well in excess of the statutory minimum and even outside of the cooling off period would not enforce any contract prior to completion of a sale. It just isn't in its interests to have an unwilling and disgruntled holiday home owner on its park. Parkdean sells circa 400 caravans in Wales annually to existing and new customers. There have been no complaints to the NCC or BH&HPA about the sales process or any litigation relating to Parkdean. There has been a lack of consultation in this area.
26. This provision is more onerous than the equivalent provisions in Peter Black's legislation (where the 28 day period can be shortened by agreement) and we can see no reason why a provision that was not seen as necessary for the protection of a residential home owner is justified in the case of a holiday home owner who has a permanent residence elsewhere.
27. This draconian requirement serves neither the holiday park operator nor consumer and will fundamentally undermine the holiday park operator's business model causing irreparable harm. It fails completely to distinguish the complex commercial holiday park sector from the residential park

sector. The sector is just recovering from the recession with caravan production (a standard way of looking at activity in the holiday park sector) still only c 15,000 units per annum compared to c25,000 prior to 2008. A provision that will actively drive away customers to competitors will reverse the recovery and impact adversely not only on operators and their customers but jobs and the local economy where the holiday park is situated.

Protection from harassment (Part 5)

28. Parkdean would never tolerate any harassment of individuals or oppose measures that would prevent others from doing so. However the application of provisions from the 2013 Act designed to protect vulnerable park home residents to both holiday home owners and short term holiday makers who stay at the holiday park for a 3, 4 or 7 night holidays is completely unnecessary and we have seen no evidence to demonstrate the need for this.
29. The existing criminal and civil law provides sufficient protection to holiday home owners and holiday makers. These proposed measures will make it more difficult to manage the holiday park in the interests of all users. Operators will understandably be more reluctant to deal with anti-social, violent and aggressive behaviour in case they are accused of breaching this part of the legislation. By way of example, if an operator requires a holiday maker to leave for aggressive behaviour, the holiday maker has an action for breach of contract if this is found to be unreasonable but these provisions could effectively make this breach of contract a criminal act.
30. There have been no proposals for other businesses which compete directly with holiday park operators, such as hotels, timeshares and log cabins to be subject to this part of the legislation and we have not been made aware of any reasons for the holiday park sector being singled out.

Unintended Consequences

31. These are highlighted above.

Conclusion

32. This legislation if enacted in its current form will profoundly disadvantage both the holiday park operator and holiday home owner and place the holiday park sector at a competitive disadvantage to other tourism businesses in Wales and also against the competing English holiday park sector which draws on the same customer base. The bill fails to recognise the differences between the residential and holiday park sector and by applying legislation designed to deal with residential issues to holiday parks will severely impact on holiday park operators. The benefits of improved and updated site licensing and prevention of holiday homes being used as permanent residences can be achieved without undermining the business model upon which park operators, in particular the larger parks and individual park operators which may be touring and holiday focused, operate.
33. If you require any further information please contact Judith Archibold, Legal and Corporate Services Director at Parkdean (juditharchibold@parkdeanholidays.com).



Judith Archibold
Legal and Corporate Services Director on behalf of Parkdean

Schedule 1 - Costs of carrying out annual residence test

Number of owners at Trecco and Pendine 2000

<u>Head office/owner team costs</u>	£
Paper	500
Prepaid envelopes	500
Envelopes parkdean	500
Postage	4,100
Printing	1,100
Time preparing & printing and posting 4 letters	1,551
Time scanning & attaching = 10 mins per scan	3,077
Chasing phone calls labour	1,654
Chasing phone calls cost	1,500
1st No response letters 75%	375
2nd no response letters 50%	250
3rd no response letters 25%	125
Time	2,300

Legal/regulatory costs

External advice, legal director and data protection of 1,500

Park time

Owner enquiries, complaints, visits 7,000

26,032

