



Appeal Decision

Site visit made on 18 July 2017

by Simon N Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 August 2017

Appeal Ref: APP/L1765/X/17/3171592

Wickham Court, Blackhouse Lane, North Boarhunt, Hampshire, PO17 6JS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Royale Parks Ltd against the decision of Winchester City Council.
 - The application Ref 17/00239/LDP, dated 3 January 2017, was refused by notice dated 2 March 2017.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of land for the siting of holiday caravans for twelve months of the year together with a maximum of 42 caravans for the purposes of residential occupation.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

Background to the Appeal

2. The site has a long planning history concerning various parcels of land, planning permissions and LDCs which were brought together in 2014 when an application for an LDC was dismissed on appeal. I do not need to go into that decision in detail because subsequently the Council granted an LDC for the whole site confirming it could be used for the stationing of holiday caravans all year round without a restriction on numbers and for 18 caravans for permanent residential use. These 18 could be placed anywhere on the site.
3. A further appeal in 2016 granted another LDC for the stationing of 30 caravans for residential use. The Inspector found the management of the site had changed significantly since the 2014 appeal. It was now intended the whole site would be used for mobile homes with a mixture of holiday and residential uses. Each mobile home was set in its own small garden/parking space and the eventual maximum number of mobile homes would be about 124. The owners operated an over 50s policy (which I assume extended to holiday as well as residential ownership). The Inspector found the increase from 18 to 30 would not be material for a number of reasons. There would be little difference in the appearance of the mobile homes themselves; the over 50s would be likely to use the holiday homes across the whole year, not just at peak holiday times, thus offsetting the impact of more residential units on the site; and

despite the paucity of evidence the effect on local infrastructure would not be material.

4. On my site visit I noticed the changes to the layout of the site as described in 2016 were continuing apace. Roads were laid out and lined by large mobile homes, mostly twin-units with parking spaces and gardens, decking etc. The rest of the site was either still open grass or undergoing the first stages of preparation for new mobile homes. The current residential units were scattered amongst the holiday homes, the latter forming the majority.

Reasons

5. Firstly I need to determine what the base measurement is. The original holiday park seems to have operated with 18 residential units at its centre around which the holiday use waxed and waned. In 2016 the Inspector found an increase from 18 to 30 would not be material. I am now being asked to consider a new figure of 42 so the main question for me therefore is whether a holiday park with 42 residential units is materially different from one with 30. However, the 2016 appeal decision did not set a new benchmark, as if it were a planning permission for 30 residential units, as a LDC does not grant any form of permission, it merely answers the question whether, on a certain day, a particular proposed use would be materially different or not. Consequently, I consider it is also reasonable to consider the cumulative effect of the various changes in order to avoid a situation of creeping lawfulness.
6. As the 2016 Inspector found, there seemed to be no discernible difference between the residential and the holiday mobile homes. I saw on my site visit that all were set within their own plots, with flower beds, pots, small gardens, decking, BBQs, washing lines and small sheds scattered about. Most of the holiday homes also had cars parked outside, indicating they were being used, although the whole site was quiet. This is quite different from the situation in 2014 when there was a marked difference between holiday and the residential units. It does not seem controversial to me to conclude the appearance of the mobile homes will be little affected by the type of occupation.
7. If the appearance of the use is similar what of the character? In the 2014 appeal the Inspector found there to be a material difference. However, in that case he identified a number of matters that are less relevant today. The static holiday homes were quite different in character to the residential homes. There was no limit to the age of those renting static holiday homes and the evidence then suggested a holiday park with some residential uses, so that the holiday element would be subject to the usual peaks and troughs, with units rented out to families with children and so on. It seems now that the situation is quite different with ownership by the over 50s suggesting a model of second homes used for personal holidays, rather than investment properties rented out as often as possible to maximise income. There might well be a more intense use of holiday homes in the summer than the winter, but as the previous Inspector pointed out this new model of ownership would tend to spread the holiday use more evenly across the year. There is certainly no evidence to suggest otherwise. Of course, as the balance between the numbers of residential and holiday uses changes even small fluctuations will be more evident, but I do not consider that situation has arisen yet.
8. I have been given little evidence about off-site impacts and the appellant argues they are of little relevance. Rather than being of little relevance I would

suggest there is little evidence, if any, to suggest that people living at the site would create more traffic or put more pressure on local services than people holidaying there, particularly given the holiday/residential model being operated by the appellant. That was certainly the position taken by the Inspectors in the other appeal decisions provided by the appellant for similar caravan parks. The appellant argues that it is wrong to take into account the proposed or actual management of the park as this might change. However, as noted in the Old Down Caravan Site appeal¹ an LDC is “declaratory based on the information provided”, if the assumptions underlying the grant of an LDC change then it may be necessary to revisit the question of materiality.

9. Given this it does not seem to me that if 42 mobile homes out of a potential 124 have a permanent residential use that would represent a material change of use from the base use of 18 residential units or the current lawful use of 30 caravans given the way the caravan site is operated.
10. For the reasons given above I conclude, on the evidence now available, that the Council’s refusal to grant a certificate of lawful use or development in respect of Wickham Court was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Simon Hand

Inspector

¹ APP/Q3305/X/16/3155196 Issued 5 January 2017, paragraph 24 refers.

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 3 January 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason: given the operation of the caravan park there is no material difference if 42 units are used for permanent residential use rather than 18 or 30.

Signed

Simon Hand

Inspector

Date: 02 August 2017

Reference: APP/L1765/X/17/3171592

First Schedule

Use of land for the siting of holiday caravans for twelve months of the year together with a maximum of 42 caravans for the purposes of residential occupation.

Second Schedule

Land at Wickham Court, Blackhouse Lane, North Boarhunt, Hampshire, PO17 6JS.

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 02 August 2017

by **Simon Hand MA**

Land at: Wickham Court, Blackhouse Lane, North Boarhunt, Hampshire, PO17 6JS

Reference: APP/L1765/X/17/3171592

Scale: not to scale

