



Appeal Decision

Site visit made on 13 January 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 29 January 2020

Appeal Ref: APP/E2001/X/19/3232780

Sandholme Park, Sandholme Lane, Leven HU17 5LW

- 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 Vellam and Townsley Partnership against the decision of East Riding of Yorkshire Council.
 - The application Ref 18/04107/CLE, dated 18 December 2018, was refused by notice dated 11 June 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which an LDC is sought is use of land for continued unrestricted occupancy of caravans.
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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.

Reasons

2. Sandholme Park is a strip of land between Sandholme Lane and the Leven Canal. About 44 mobile caravans are sited on the land. The Council has made no claim that the land is not the same as that for which planning permission J.13(I) was granted on 26 September 1966 for 'to continue the use of approximately 1.75 acres of land as a caravan site and erection of a building for use as an ablution block, shop, store and wash house'. Neither the permission or any of its three conditions restricts the number or occupancy of caravans sited on the land. The Council has made no claim that planning permission J.13(I) has been superseded and does not control the current use of the land.

3. The Council does claim that no restriction was necessary at the time planning permission J.13(I) was granted because, at that time, "...caravans were not suitable for residential occupation", and that the infrastructure elements of the permission support the view that the permission "...did not permit other than holiday or weekend use". The first of these claims is not supported by any evidence and, in any event, any caravan at any time in history could have been used for permanent residential occupation unless this was expressly restricted. The permitted infrastructure is likely to be for those using caravans on the land for holiday purposes but such occupation of caravans could be alongside the permanent occupation of other caravans. Planning permission J.13(I), in this regard, permits the siting of caravans on the land for any purpose, whether this be for holiday purposes or as permanent homes.

4. About five of the current caravans are used for permanent residential occupation whilst the remainder are used for holiday purposes. This accords with licences for the site, granted in 1990 and more recently in 2017 under the provisions of the Caravan Sites and Control of Development Act 1960 (the CSCDA), which state that not more than 44 caravans shall be stationed on the site and that not more than seven of the caravans shall be used for residential purposes between October 1st and March 31st of the following year. But these are restrictions of the site licence and have no bearing on whether the permanent residential occupation of caravans is restricted by the planning permission.

5. Planning permission J.13(I) is for, in particular, the use of land as a caravan site. The CSCDA defines a 'caravan' as "...any structure designed or adapted for human habitation...", and defines a 'caravan site' as "...land on which a caravan is stationed for the purposes of human habitation...". The permitted use of the land is therefore the stationing of caravans for the purposes of human habitation. Human habitation can be permanent or temporary. Following the grant of the planning permission the site owners used the site principally for holiday purposes but also, as permitted by the site licence, for the siting of a few caravans for permanent residential occupation. Both uses are permitted by the planning permission.

6. The Council has referred to "...a long history of applications which consistently sought permission for infrastructure of a nature to support holiday uses". But such a use of the site was the choice of the site owner and does not preclude them from also using the site for permanent residential occupation purposes. The two uses can subsist alongside each other under the terms of the site licence and planning permission J.13(I) because, most importantly, the permission does not restrict the type of occupancy of caravans on the site.

7. A planning application was made in 1976 for 'use as living accommodation of one of the existing caravans on the caravan site...(and)...the placing on the site of two further caravans, one for use as living accommodation and the other for use as a holiday dwelling...'. That application was refused and an appeal was dismissed. It is not clear from evidence what was the development site. In any event, the decision letter describes a caravan site that is much like it is now where the majority of the 45 caravans were being used for holiday purposes whilst three were being used as 'residential caravans'. The letter corroborates the use of the caravan site but otherwise has no bearing on the outcome of this appeal.

8. Planning permission J.13(I) does not specify any restrictions on the use and type of caravans that can be lawfully sited on the land. It does not, furthermore and as a matter of fact, limit the use of any caravan so sited to be for holiday purposes only. The permission is clear and unambiguous on its face and caravans, falling within the definition of a caravan in the CSCDA, can be lawfully occupied for human habitation, whether this be by holiday makers or permanently.

9. For the reasons given, and as a matter of planning judgement, the Council's refusal to grant an LDC for the use of land for continued unrestricted occupancy of caravans at Sandholme Park, Sandholme Lane, Leven was not well-founded and the appeal thus succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 18 December 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use is permitted by planning permission J.13(I) dated 26 September 1966

Signed

John Braithwaite

Inspector

Date: 29 January 2020

Reference: APP/E2001/X/19/3232780

First Schedule

The use of land for continued unrestricted occupancy of caravans

Second Schedule

Land at Sandholme Park, Sandholme Lane, Leven

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 29 January 2020

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Land at Sandholme Park, Sandholme Lane, Leven

Reference: APP/E2001/X/19/3232780

Scale: not to scale

