



Appeal Decision

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/E0915/X/19/3236970

Irthing Vale Caravan Park, Old Church Lane, Brampton, Cumbria CA8 2AA

- 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 Mr Keith Millard against the decision of Carlisle City Council.
 - The application Ref BP/DC/19/0518, dated 27 June 2019, was refused by notice dated 22 August 2019.
 - 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 existing caravan park without restriction on length of stay or type of occupation of the caravans to include permanent residential use.
-

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is found to be lawful.

Application for costs

2. An application for costs was made by Mr Keith Millard against the Carlisle City Council. This application is the subject of a separate Decision.

Procedural Matters

3. As the determination of this appeal turns on matters of law, it was not necessary for me to carry out a site inspection.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

5. The appeal site is a caravan park located on the outskirts of the settlement of Brampton. The site comprises 25 static caravans and 15 touring caravan sites, and also a mobile home to be occupied by a warden. The matter in dispute is whether the extant planning permissions allow for the use of the caravan site by both touring caravans and static caravans without restriction on the length of stay or nature of the occupation of the caravans so as to allow for any type of occupancy for 11 months of the year, excluding February.

6. It is the Council's case, as set out in the reason for refusal, that the proposed use would amount to a material change of use of the land, and would require planning permission. The proposed use would also be in breach of existing conditions.
7. In 1980, planning permission (ref: 80/0463) was granted for the renewal of use of the land as a caravan park, subject to conditions. Of these, condition 2 stated that *'The site shall be used for the stationing of 40 caravans of which not more than 20 shall be on a seasonal basis, the remainder shall be touring caravans.'* The reason given was *'To safeguard the visual amenities of the area.'* Condition 3 stated that *'The occupation of any caravans on the site shall be limited to the period 1st March to 31st October inclusive each year.'* The reason given was *'To ensure the successful implementation of the landscaping scheme'*.
8. Planning permission was subsequently sought for a variation to permit the use of five touring pitches for static holiday pitches (ref: 90/0304). Condition 2 stated that *'The development hereby permitted shall be carried out strictly in accordance with the approved plan.'* The reason attached was: *'To ensure that the development accords with the scheme approved by the local planning authority'*. The Council state that the approved plans illustrated the location of five static caravans within a caravan site which has a restricted use for holiday accommodation only.
9. In 2007, planning permission (ref: 07/1020) was granted for the *'Variation of condition 3 attached to planning permission 80/0463 to allow the opening of caravan site between the months of March to January (inclusive).'* The attached condition 2 stated that *'The occupation of any caravans on the site shall be limited to the period 1st March and 31st January the following year.'* The reason given was *'The site is within an area, where to preserve the character of the countryside, and to comply with sustainable development objectives, it is the policy of the local planning authority not to permit permanent residential development'* in compliance with the cited development plan policies.
10. The Council argue that, because there is a closed season when the caravan site will not be occupied, this precludes permanent residential occupation of the caravans. However, from the evidence before me, there is no wording in the conditions to stop anybody from continuously occupying a static caravan for 11 months of the year, and vacating it for the remaining month. Similarly, a touring caravan could be parked on the site and occupied continuously for 11 months on the same basis.
11. This is notwithstanding the use of terms such as 'holiday' and 'seasonal' as these words do not in themselves pose definitive restrictions on occupation. Whilst it may well be inconvenient to be absent for a set month every year, this in itself would not preclude people using caravans on the site as their sole or main home, which would amount to permanent residency.
12. My attention has been drawn to the planning permissions relating to the siting of a caravan as a warden's accommodation. Two temporary permissions (refs: 80/0462 & 82/0895) were granted, followed by a permanent permission (ref: 87/0214). In each case, occupancy was restricted to the warden employed at the site, and their dependents. I accept that the Council's intentions were different in respect of the various permissions granted for the warden's caravan and the remaining static caravans and touring pitches. However, this intention

is not explicitly borne out in the wording of the relevant permissions, and the occupancy of the caravans for 11 months of the year would not breach the existing conditions. It thus follows that the use envisaged in this appeal would be lawful.

Conclusion

13. For the reasons given above, I conclude on the evidence available that the Council's refusal to grant an LDC in respect of the use of the existing caravan park without restriction on length of stay or type of occupation of the caravans to include permanent residential use was not well founded and that the appeal should succeed. I shall exercise the powers transferred to me under s195(2) of the Act.

Elaine Gray

INSPECTOR

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 27 June 2019 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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:

There were no limitations of the use of touring caravans or the static caravans in terms of type of residential occupancy and duration within the permitted 11 month period each year.

Signed

Elaine Gray

INSPECTOR

Date: 27 March 2020

Reference: APP/E0915/X/19/3236970

First Schedule

Use of existing caravan park without restriction on length of stay or type of occupation of the caravans to include permanent residential use.

Second Schedule

Land at Irthing Vale Caravan Park, Old Church Lane, Brampton, Cumbria CA8 2AA

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: 27 March 2020

by **Elaine Gray MA(Hons) MSc IHBC**

**Land at: Irthing Vale Caravan Park, Old Church Lane, Brampton, Cumbria
CA8 2AA**

Reference: APP/E0915/X/19/3236970

Scale: Not to scale

