



Appeal Decisions

Site visit made on 25 February 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2020

Appeal A: APP/P2365/X/19/3219876

Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

- 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 S Beard, Newbridge Caravan Park, against the decision of West Lancashire Borough Council.
- The application Ref 2018/0861/LDP dated 9 August 2018, was refused by notice dated 8 October 2018.
- 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 Proposed use of part of the caravan park approved on appeal under planning permission reference 8/6/454 by five caravans over summer without restriction on their position.

Summary of Decision: The appeal is allowed to the extent described in the Formal Decision and an LDC is issued accordingly.

Appeal B: APP/P2365/X/19/3219878

Newbridge Farm and Caravan Park, Stopgate Lane, Simonswood L33 4YH

- 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 S Beard, Newbridge Caravan Park against the decision of West Lancashire Borough Council.
- The application Ref 2018/0862/LDC, dated 6 August 2018, was refused by notice dated 5 October 2018.
- 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 part of the caravan park adjacent to and including the main developed part of the site by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time up to a maximum of 15 caravans.

Summary of Decision: The appeal is dismissed.

Appeal C: APP/P2365/X/19/3232198

Newbridge Caravan Park, Stopgate Lane, Simonswood L33 4YH

- 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 S Beard, Newbridge Caravan Park against the decision of West Lancashire Borough Council.
- The application Ref 2018/1159/LDP, dated 2 November 2018, was refused by notice dated 15 February 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 part of the caravan park (identified on drawing number L4) by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time up to a maximum of 12 caravans.

Summary of Decision: The appeal is allowed to the extent described in the Formal Decision and an LDC is issued accordingly.

Appeal D: APP/P2365/X/19/3219879

Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

- 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 S Beard, Newbridge Caravan Park, against the decision of West Lancashire Borough Council.
- The application Ref 2018/0860/LDC, dated 9 August 2018, was refused by notice dated 12 October 2018.
- The application was made under section 191(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 storage of caravans.

Summary of Decision: The appeal is allowed to the extent described in the Formal Decision and an LDC is issued accordingly.

Appeal E: APP/P2365/X/19/3232203

Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

- 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 S Beard, Newbridge Caravan Park, against the decision of West Lancashire Borough Council.
- The application Ref 2018/1228/LDC, dated 16 November 2018, was refused by notice dated 15 February 2019.
- The application was made under section 191(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 storage of caravans.

Summary of Decision: The appeal is allowed to the extent described in the Formal Decision and an LDC is issued accordingly.

Preliminary Matter

1. I have taken the address of the respective sites from the information set out in paragraph 1.7 of the Council's statement, which has not been disputed by the appellant.

Background

2. The various appeal sites include land that is currently being used as a residential caravan park (Appeals B and C) and for caravan storage (Appeals, A, D and E). Newbridge Farm and Caravan Park as a whole, has an extensive planning history of which the following cases are particularly relevant to the current appeals:

- Planning permission for “the use of the field as a site for not more than 5 caravans during the summer months”, granted on appeal on 25 May 1950 ref 8/6/454 (The 1950 planning permission). No conditions were attached to this permission.
- Planning permission for the “use of land for the storage of 25 no. caravans”, granted on 20 January 1994 ref APP/93/00308 (The 1994 planning permission).
- LDC for “Proposed use of part of the caravan park approved on appeal under planning permission reference 8/6/454 by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time” issued on 18 September 2014 ref 2014/0734/LDP (The 2014 LDC).
- LDC for “Use of part of the caravan park approved on appeal under planning permission reference 8/6/454 as a residential static caravan site for the stationing of no more than 10 caravans” issued following appeal on 24 November 2017 ref APP/P2365/X/16/3161038 (The 2017 LDC).
- Dismissed planning appeals in relation to the “use of part of the caravan park approved on appeal under planning permission reference 8/6/454 by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time”¹ (the 2017 appeals).

Reasons

Appeal A

3. In order for an LDC to be granted under s192, it is necessary for the appellant to show, on the balance of probability, that the development would be lawful. The 1950 planning permission allows “the use of the field as a site for not more than 5 caravans during the summer months”. It is necessary to consider whether there have been any processes, in the meantime, which have led to the loss of lawful use rights conferred by that permission.
4. I have not been presented with any information that would lead me to conclude that the 1950 planning permission was not implemented, nor that that permission has been abandoned. I have no reason to disagree with the Inspector who determined the 2017 LDC and planning appeals that the 1950 planning permission still remains extant.
5. The appeal site is broadly rectangular, extending north to south. Though extensive in area, it covers only part of a larger site that was the subject of the 1950 planning permission. Since that planning permission was granted, a residential caravan park has been developed on land to the south-west of the appeal site, broadly the Appeal C area. Caravan storage is also taking place elsewhere within the site.
6. I acknowledge that development permitted by the 1950 planning permission may not have actually taken place on the site for many years. However notwithstanding this, it seems to me that the aforementioned developments

¹ Refs APP/P2365/X/16/3161031 & APP/P2365/X/16/3161032

would not serve to physically preclude the continued implementation of that permission, insofar as it relates to the appeal site, the developments not being physically inconsistent with one another.

7. This then leads to the question as to whether the caravans permitted by the 1950 planning permission have been subsumed by the 2017 LDC. The 2017 LDC site area is situated entirely outside the Appeal A site area, such that if the 1950 planning permission was deemed to be implemented there, the development may not be lawful as proposed.
8. The 2017 LDC allows "Use of part of the caravan park approved on appeal under planning permission reference 8/6/454 as a residential static caravan site for the stationing of no more than 10 caravans". Unlike the 1950 planning permission, the use certified is permanent, not being restricted to the summer months. It therefore seems to me that the development certified by the 2017 LDC is distinct in character from and therefore additional to, rather than inclusive of, what was permitted by the 1950 planning permission. Accordingly the 2017 LDC would not serve to preclude the continued implementation of the 1950 planning permission on the appeal site.
9. Given that I have found that the development permitted by the 1950 planning permission could continue to be implemented on the appeal site, there is no need for me to proceed to consider whether such development would result in a material change of use by way of intensification. This is because, irrespective of whether it would result in such a material impact, the proposed use already has the benefit of planning permission. Neither do I consider that allowing this appeal would conflict with the previous Inspector's decision to dismiss the 2017 appeals, given that the proposal in those cases was potentially for a significantly greater number of residential caravan units.
10. Therefore, 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 Proposed use of part of the caravan park approved on appeal under planning permission reference 8/6/454 by five caravans over summer without restriction on their position at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH 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.

Appeal B

11. The site is essentially that encompassed by the 2017 LDC area, with the addition of a further portion of land to the north, the two areas being separated by a vehicular access track leading to a caravan storage area on adjacent land to the east.
12. The area in question was considered by the 2017 LDC Inspector for the same use, but without limitation on the number of caravans. The Inspector in that case specifically modified the LDC area to exclude the northern parcel of land, considering that there was nothing to demonstrate that residential caravans were actually stationed there previously and that the access track served to physically separate it from the area where caravans were stationed, and thus was outside the planning unit.

13. The appellant says that the northern parcel of land forms an ancillary area to the 2017 LDC site and the similar 2014 LDC site. Reference is made to associated storage buildings previously having been sited there, which have now been cleared, with the area re-surfaced and upgraded to allow for parking provision. Given that the 2014 LDC does not restrict the layout of the site or the number of caravan units, the appellant claims that the ancillary status of the northern parcel of land means that it is encompassed by the 2014 LDC, such that caravans may be sited there as part of the lawful use.
14. Both the 2014 and 2017 LDCs denote the area of land to which the certified use relates. In the case of the 2014 LDC, the certified area appears to correspond with the application area sought at the time. It would therefore be odd if the area depicted did not correspond with the planning unit, including ancillary areas, at that time. In 2017, the Inspector made a clear finding that the northern parcel was not part of an area, and thus the planning unit, where the use of the land as a residential caravan site had been demonstrated. That in itself would suggest that the additional parcel of land that is included within Appeal B cannot, on the balance of probability, have been part of the planning unit for a continuous period of 10 years or more.
15. The appellant has referred to a previous appeal decision, elsewhere, where an LDC was granted for a maximum of 8 caravan units on land ancillary to a residential caravan park. This was on the basis that the ancillary land was deemed to have extended the wider caravan park, such that there were no restrictions on its use².
16. Notwithstanding the above observations, it was apparent from my visit that the 'northern area' is substantially gravelled and is largely devoid of buildings, although a caravan is sited there. Notwithstanding this, the land is different in character to the cluster of neatly arranged residential caravans to the south, from which it is separated by the access track. It would appear that a number of buildings in poor condition were previously sited on this 'northern area' but have since been demolished. Letters from a previous site owner and existing resident refer to buildings in that area accommodating a site office, toilet and meter housing and being used by caravan owners as their storage facility.
17. However I have not been provided with any significant details of the functional link between former buildings on this site and the static residential caravan site to the south of the access track, including which caravan holders utilised and depended on this area, including the office of the site owner. In May 2014 reference was made on the Inspection Form of the Council's Licensing officer to the presence of a communal toilet³. However the location of this facility is uncertain, which in any event was described as inaccessible.
18. In addition I note from the copies of the various site licenses provided that car parking and storage adjacent to the caravans themselves has not historically been prohibited, subject to storage facilities being constructed in non-combustible materials. This in turn casts doubt over the inevitability of parking and storage, associated with the use of the residential caravan site, taking place within the 'northern area', as does the presence of what appear to be

² Appeal Ref APP/W0530/X/17/3182221

³ See Appendix XXVII of the Council's Statement

ancillary buildings next to some of the caravans, as shown on some of the oblique aerial photographs provided.

19. Furthermore I am not aware, from the information provided, that a plan of any amenity facilities, including recreational space, associated with the caravan site has previously been provided to the Council in accordance with site license conditions imposed⁴, which may otherwise have bolstered the appellant's case. In addition, even if there was historically a functional link between the caravan site and the 'northern area', such a relationship was not apparent from my site visit, which brings into question whether any link has been sufficiently continuous to merit a claim of lawfulness.
20. I am not therefore persuaded on the balance of probability, from the information before me, including the various aerial photographs provided, that this area has or previously had a close ancillary relationship with, and that as such it could be said to be part and parcel of, the 2014 LDC site, within the same planning unit. As such the circumstances of this site differ from the aforementioned LDC appeal, to the extent that it does not automatically follow that an LDC should be granted in this case.
21. I therefore turn to the question of whether the intensification in the proposed use of the appeal site would result in change to the character of the use such that there would be a material change in the use of the land. Though not significantly visible from the public domain, the northern area of the appeal site is prominent in relation to the area occupied by residential caravans to the south. I therefore consider, notwithstanding the historic presence of buildings on the site, that even if not harmful, the siting of caravans in this location would nevertheless result in a significant visual impact.
22. Furthermore, it seems to me that the use of the northern part of the site for residential static caravans, that would not be time restricted, would potentially significantly increase the number of comings and goings to and from the site. This, in my view, would remain the case even if the existing static caravan site, and the Appeal A site area, were to be used in line with both the unrestricted 2014 LDC and the 1950 planning permission respectively. I consider that such an increase would be perceptible to current occupiers of the caravan site, such that there would be a noticeable change in the character of the use and a material change of use through intensification would result. The proposed development would therefore require planning permission.
23. Therefore, for the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Use of part of the caravan park adjacent to and including the main developed part of the site by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time up to a maximum of 15 caravans at Newbridge Farm and Caravan Park, Stopgate Lane, Simonswood L33 4YH was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

⁴ See for example Site Licence granted 8 June 2015 – condition G4

Appeal C

24. Both the 2014 and the 2017 LDCs certify the use of land for the stationing of caravans for residential purposes, one being unrestricted (2014) and one specifying the stationing of no more than 10 caravans (2017). There is a substantial degree of overlap between the physical area covered by the appeal site and the 2017 and 2014 LDCs. The site for this appeal is essentially that which was encompassed by the 2017 LDC area, with the addition of a small portion of land to the north east. In turn, the 2014 LDC excludes a slightly larger portion of land in the north-east corner. It was apparent from my visit that there are currently 11 caravans stationed on the appeal site.
25. Both certificates remain extant and it seems to me that both may be taken into account in reaching my decision. I have already found, in terms of Appeal A, that the development certified by the 2017 LDC, because it was not seasonally restricted, is distinct in character from, and therefore additional to, rather than inclusive of, what was permitted by the 1950 planning permission. The 2014 LDC can be similarly distinguished for the same reason. I have also had regard to the comments of a present caravan occupier, referring to their continuous residence on the park since 1969⁵; also to the 2017 Inspector's reference to the officer report on the 2014 LDC application, noting that the site was in use for the siting of 6 caravans for many years. This evidence suggests that residential caravan use has taken place on a permanent, rather than seasonal, basis for a long time. It leads me to conclude, on the balance of probability, that the proposed lawfulness status in 2014 had been accepted due to the continuity of the use over time, rather than because of a combination of past planning permissions.
26. Whilst there appears to be no reason, in principle, why the 2014 LDC should not be regarded as carrying significant weight in the determination of this appeal, it is also material that the 2017 LDC was granted for a maximum of 10 caravans. However in that case the Inspector was being asked to consider the lawfulness of a larger site for an unrestricted number of units. By contrast the question before me is specifically the lawfulness of a proposal to place 12 caravan units on the appeal site. I acknowledge that the 2017 Inspector restricted the LDC to a smaller area than applied for and restricted the caravans to 10, however I cannot be certain of all the details that were before the 2017 appeal Inspector, including all those which may have influenced the decision to afford the 2014 LDC limited weight at the time. The circumstances now and in 2017 are therefore distinguishable from one another.
27. The 2014 and 2017 LDC decisions would have been based on evidence that accompanied each of those applications at the respective times. Drawing all of the above considerations together, and on the basis of the evidence before me, I am not persuaded that the 2014 LDC is displaced by the 2017 LDC. Rather, it seems to me that the more liberal construction of the 2014 LDC serves to make it the more influential in terms of its effect on this appeal. If the use certified by the 2014 LDC was exercised through the stationing of a greater number of smaller caravans on the site in question, it seems to me that, on the balance of probability, this would be commensurate with the number of units proposed in this case. I therefore consider it unlikely that allowing twelve

⁵ See letter dated 22 June 2018 – R. Harrison

caravan units on the site, as proposed, would result in any material impact when compared to what I consider to be lawfully possible pursuant to the 2014 LDC.

28. I conclude that change to the character of what I consider to be lawfully possible, and therefore a material change of use through intensification would not result. The proposed use is therefore lawful and for the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Use of part of the caravan park (identified on drawing number L4) by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time up to a maximum of 12 caravans at Newbridge Caravan Park, Stopgate Lane, Simonswood L33 4YH 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.

Appeal D

29. By way of background, the appeal site comprises part of the land that was the subject of the 1994 planning permission (for the use of land for the storage of 25 caravans). However the Inspector dealing with the 2017 appeals found, on the balance of probability, that that permission was not lawfully implemented, partly on the basis of non-compliance with a condition requiring the layout of individual caravan pitches to be agreed.
30. Despite the Council's representations regarding a less formal approach to the discharge of conditions and an understanding that storage was focussed on the western side of the site, I have not been provided with any information that would lead me to take a contrary view to the previous Inspector as to the status of the 1994 permission.
31. Uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not involve development, require planning permission or because the time for enforcement action has expired (s191(2)).
32. In this case, the appellant is relying on the passage of time. Accordingly it is necessary to consider whether, on the balance of probability, the use of the land for the storage of caravans has continued for a period of ten years or more prior to the date of the application, that being from at least 9 August 2008, so as to be immune from enforcement.
33. The onus is on the appellant to demonstrate that, on the balance of probability, the use has continued for the aforementioned ten-year period. He has submitted various items of evidence in support of the application, including aerial photographs; letters from site owners and a resident of the adjacent caravan site and copies of agreements with tourer caravan owners regarding the use of the site for storage.
34. The appeal site comprises a north-south orientated rectangular area. It is situated immediately to the east of the residential static caravan site, the subject of Appeal C, from which it is separated by a mature hedge. The appeal site is accessed via its western boundary, with an informal central track allowing for access to a series of pitches on the west and east sides. There is

no dispute between the parties that this site and the aforementioned static caravan site are within separate planning units. Neither have I been presented with any evidence that would lead me to disagree with the appellant's position that the appeal site forms a single planning unit, with caravan storage along both the east and west sides having originally been facilitated by the repositioning of boundary fencing in the early 2000s. This is also set out in a supporting letter from the previous site owner. Indeed, the Council has provided photographic evidence, from July 2002, showing the boundary fencing in place⁶. Whilst the boundary fencing in question has since been removed, I do not consider that this has compromised the planning unit in any way.

35. It is also undisputed between the parties that the western side of the site has been used consistently for caravan storage for the requisite ten-year period. Because, as set out above, the appeal site forms a discrete planning unit, it therefore seems to me that irrespective of exactly where within that unit caravans have been continuously stored, the principle of caravan storage within the appeal site as a whole, has nevertheless become lawful on that basis. However the question remains as to the level of intensity at which the appeal site may lawfully be used.
36. The Council has provided a series of aerial photographs relating to various years between 1999 and 2018. These photographs, which are undisputed by the appellant, indicate that in general the eastern side of the site has not been used for caravan storage to the same level of intensity as the western side, such that between 1999 and 2013 there were consistently fewer than 10 units shown there, with significant open spaces apparent. Whilst the photographs show an increase in the level of storage on the eastern side of the site between 2015 and 2016, further evidence from 2017 and 2018 shows that area to be substantially devoid of caravans, with units apparently having been removed following the threat of enforcement action by the Council. However, I am not restricted to considering the period immediately preceding the application date, as any 10-year period of continuous use prior to the application date would be sufficient to accrue lawfulness.
37. All I am able to do is certify the number of caravans that were, more likely than not, stored on the appeal site, year on year for a period of 10 years or more. I have had regard to the evidence submitted, including representations about the consistent use of the western side of the site; the chronology of aerial photographs provided including gaps therein, and the reduction in storage seemingly in response to the threat of enforcement action. I have also had regard to the small number of caravan storage agreements submitted (six in separate years).
38. Despite this, I am not persuaded, on the balance of probability, taking into account the aforementioned considerations, whilst acknowledging that aerial photographs are a snapshot only and that there will inevitably be a degree of seasonal fluctuation in storage numbers, that the information provided demonstrates the appeal site has been used continuously and in its entirety for the storage of caravans over the necessary ten-year immunity period.
39. However I give some weight to the letter from an existing caravan site resident which states that for well over ten years there has been more than 25 vans in

⁶ See Appendix IV of the Council's Statement

store. Whilst acknowledging that there are some gaps in the photographic record, I find that when considering a 10-year period between 2006 and 2016, whilst also mindful of the number of caravans recorded on earlier aerial photographs, the appellant has demonstrated, on the balance of probability, that the level of caravan storage that has been consistent on the site has been 26 caravans (this appearing to be the minimum level of recorded storage over that period, in March 2012). Although the number of caravans stored has varied, any greater number has not been demonstrated, on the balance of probability, to have been continuous over the relevant period. Benchmarking the level of storage accordingly would, in my view, reflect the lawful level of use of the site.

40. It is claimed by the appellant that the numbers of several of the caravan storage agreement records provided, indicate that consistently significantly more than 25 storage pitches were being utilised. However taking the example from March 2012, the agreement record number is shown as No 39, whereas the aerial photograph from the same time shows there to be 26 caravans situated on the site. I am not therefore persuaded that the agreement record number is necessarily indicative of storage levels in practice and I therefore attach limited weight to this evidence.
41. The appellant also argues that increasing the storage of caravans to a maximum of 50 would be likely to go unnoticed, and as such would not amount to a material change of use, such that this number could be regarded as lawful. However I am firmly of the view that the impact of such intensification, when compared to the maximum figure I have identified, would be apparent to occupiers of the adjacent caravan site, in the numbers of comings and goings to and from the site, such that the use would be different in character and it would result in a material change of use.
42. S.191(4) allows the local planning authority to modify the terms of the application, giving a certificate in somewhat different terms so as to accord with the facts and evidence, rather than an outright refusal. The Secretary of State or Inspector can exercise the same power in s.191(4), on appeal, as the local planning authority has on the application.
43. Therefore for the reasons given above, and having considered all of the documentation provided by the appellant, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Use of land for the storage of caravans at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH was well-founded insofar as the number of caravans stored would not be restricted.
44. However, insofar as the maximum number of caravans stored could be limited, in this case to 26, I conclude that the Council's refusal to grant a certificate of lawful use or development was not well-founded. The appeal succeeds to that extent. I will exercise, accordingly, the powers transferred to me under section 195(2) of the 1990 Act as amended, and grant a certificate in those terms.

Appeal E

45. The appeal site comprises the western side together with the southern-most part of the eastern side of the site subject to Appeal D. As in the case of Appeal D it is necessary to consider whether, on the balance of probability, the

use of the land for the storage of caravans has continued for a period of ten years or more prior to the date of the application, that being from at least 16 November 2008, so as to be immune from enforcement.

46. The above finding that there has been continuous caravan storage use within the planning unit over the requisite 10-year period continues to be relevant, such that the principle of caravan storage, within the appeal site as whole, having become lawful on that basis applies. As in the case of Appeal D the question remains as to what the lawful level of development on the site is.
47. I recognise that the area of the site associated with Appeal E is smaller than that associated with Appeal D. I am mindful of the various caveats in the evidence that applied in that case, and which continue to apply in this one, and have focussed on the 10-year period between 2006 and 2016. During this time there are fewer gaps in the photographic record than in some earlier windows.
48. Having reviewed the evidence in relation to this appeal, I find that the appellant has demonstrated, on the balance of probability, that the level of caravan storage that has been consistent on this site has been 21 caravans (this appearing to be the minimum level of recorded storage over that period, in March 2012). As in the case of the Appeal D site, although the number of caravans stored has varied, any greater number has not been demonstrated, on the balance of probability, to have been continuous over the relevant period. Benchmarking the level of storage accordingly would, in my view, reflect the lawful level of use of the site.
49. I therefore conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Use of land for the storage of caravans at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH was well-founded insofar as the number of caravans stored would not be restricted.
50. However, insofar as the maximum number of caravans stored could be limited, in this case to 21, I conclude that the Council's refusal to grant a certificate of lawful use or development was not well-founded. The appeal succeeds to that extent. I will exercise, accordingly, the powers transferred to me under section 195(2) of the 1990 Act as amended, and grant a certificate in those terms.

Formal Decisions

Appeal A: APP/P2365/X/19/3219876

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

Appeal B: APP/P2365/X/19/3219878

52. The appeal is dismissed.

Appeal C: APP/P2365/X/19/3232198

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

Appeal D: APP/P2365/X/19/3219879

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

Appeal E: APP/P2365/X/19/3232203

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

Roy Merrett

INSPECTOR



The Planning Inspectorate

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 9 August 2018 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use would be in accordance with planning permission 8/6/454 granted 25 May 1950 and would not be physically inconsistent with or subsumed by other lawful uses on the wider Newbridge Farm and Caravan Park.

Signed

Roy Merrett

Inspector

Date: 01 June 2020

Reference: APP/P2365/X/19/3219876

First Schedule

Proposed use of part of the caravan park approved on appeal under planning permission reference 8/6/454 by five caravans over summer without restriction on their position.

Second Schedule

Land at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

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 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 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.

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: 01 June 2020

by **Roy Merrett Bsc(Hons) DipTP MRTPI**

Land at: Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

Reference: APP/P2365/X/19/3219876

Scale: Not to Scale





The Planning Inspectorate

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 2 November 2018 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

When taking into account the 2014 LDC, on the balance of probability the proposal would not result in a change to the character of what is considered to be lawfully possible, such that a material change of use through intensification would result.

Signed

Roy Merrett

Inspector

Date: 01 June 2020

Reference: APP/P2365/X/19/3232198

First Schedule

Use of part of the caravan park (identified on drawing number L4) by residential static caravans without restriction on the layout of the site or the number of units on the site at any one time up to a maximum of 12 caravans.

Second Schedule

Land at Newbridge Caravan Park, Stopgate Lane, Simonswood L33 4YH

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 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 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.

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: 01 June 2020

by **Roy Merrett Bsc(Hons) DipTP MRTPI**

Land at: Newbridge Caravan Park, Stopgate Lane, Simonswood L33 4YH

Reference: APP/P2365/X/19/3232198

Scale: Not to scale





The Planning Inspectorate

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 9 August 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red 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 appellant has shown, on the balance of probability, that the land has been used continuously and without significant interruption for at least ten years.

Signed

Roy Merrett

Inspector

Date: 01 June 2020

Reference: APP/P2365/X/19/3219879

First Schedule

Use of land for the storage of up to a maximum of 26 caravans.

Second Schedule

Land at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

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.



The Planning Inspectorate

Plan

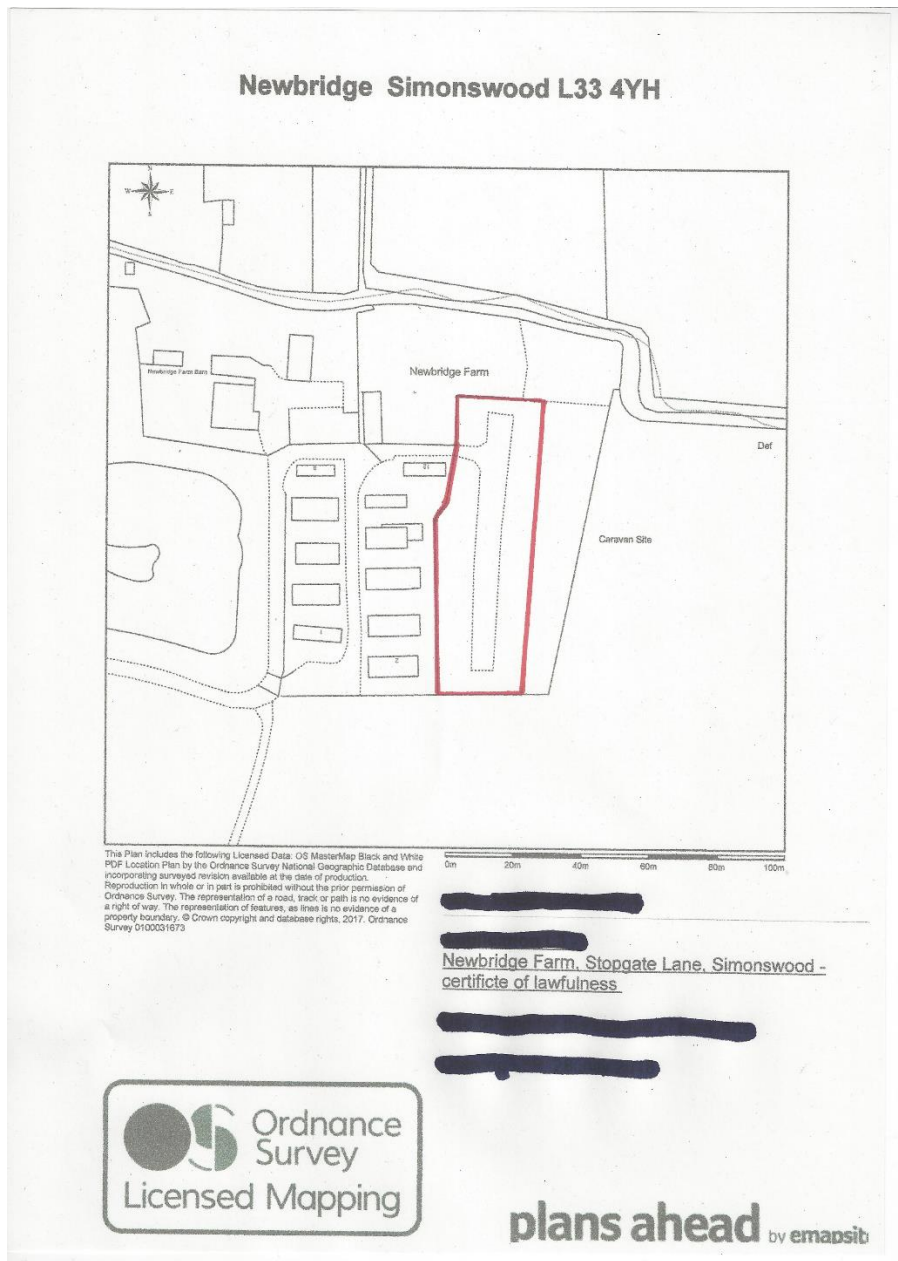
This is the plan referred to in the Lawful Development Certificate dated: 01 June 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

Land at: Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

Reference: APP/P2365/X/19/3219879

Scale: Not to Scale



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 16 November 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red 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 appellant has shown, on the balance of probability, that the land has been used continuously and without significant interruption for at least ten years.

Signed

Roy Merrett

Inspector

Date: 01 June 2020

Reference: APP/P2365/X/19/3232203

First Schedule

Use of land for the storage of up to a maximum of 21 caravans.

Second Schedule

Land at Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

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: 01 June 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

Land at: Newbridge Farm, Stopgate Lane, Simonswood L33 4YH

Reference: APP/P2365/X/19/3232203

Scale: Not to Scale

