



Appeal Decisions

Site visit made on 2 December 2020

by Thomas Shields DipURP MA MRTPI

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

Decision date: 13 January 2021

Appeal A: APP/Y2620/X/20/3256079

Caravan Site, Galley Hill House, Langham Road, Blakeney, Holt, NR25 7PR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr J Bunn against the decision of the North Norfolk District Council.
- The application Ref. CL/20/0292, dated 11 February 2020, was refused by notice dated 10 April 2020.
- The application was made under section 191(1)(a) of the Act.
- The development for which a certificate of lawful use or development is sought is use of the site for the stationing of 6 No. static caravans.

Summary Decision: The appeal is dismissed.

Appeal B: APP/Y2620/W/20/3255261

Grimes Caravan Site, Galley Hill House, Langham Road, Blakeney, Holt, NR25 7PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant planning permission under section 73 of the Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr James Bunn (J Bunn Homes (Blakeney) Ltd) against the decision of the North Norfolk District Council.
- The application Ref. PF/20/0293, dated 17 February 2020, was refused by notice dated 9 April 2020.
- The application sought planning permission for Change of use of land (paddock) to enable the relocation of an existing static caravan business without complying with a condition attached to planning permission Ref. PF19/0768, dated 26 September 2019.
- The condition in dispute is No. 3 which states:
"Notwithstanding the details submitted, the site shall be used for the standing of a maximum of 4 static caravans and 2 touring caravans only".
- The reason given for the condition is:
"To accord with the expressed intentions of the applicant and to prevent over-development of the site and to safeguard the character and appearance of the area in accordance with Policy SS 2, EN 1 and EN 2 of the adopted North Norfolk Core Strategy".

Summary Decision: The appeal is allowed in the terms set out below in the Formal Decision

APPEAL A: APP/Y2620/X/20/3256079

Preliminary Matters

1. The application description of the existing use for which a LDC is sought is set out in the banner heading above. However, *stationing of caravans* is not necessarily development by itself and does not describe the use of the land. The application form (question 6 relating to grounds) refers to their stationing for holiday purposes, and it is clear from the appellant's evidence that relates to human habitation. The Council considered the application on that basis and therefore I shall determine the appeal in the same way.
2. It is for the appellant to demonstrate, on the balance of probabilities, that the claimed use for 6 static caravans is lawful. The appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.

Main Issue

3. 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 or require planning permission or because the time for enforcement action has expired or for any other reason) (section 191(2)(a)); and they do not constitute a contravention of any of the requirements of any enforcement notice then in force (section 191(2)(b)). In this appeal the requirement of section 191(2)(b) is satisfied.
4. It is the appellant's case, pursuant to section 191(2)(a), that the use of the site for stationing 6 static caravans used as human habitation for holiday purposes has continued for more than 10 years prior to the date of the application.
5. The main issue is whether the Council's decision to refuse a LDC was well founded.

Analysis

6. Planning permission for use of land as a caravan site is a prerequisite to the grant of a caravan site licence (CSL) under the Caravan Sites and Control of Development Act 1960. Hence, it is likely that planning permission was granted in advance of the CSL granted in 1968 referred to by the parties. Neither party has been able to produce a copy of the planning permission, and a copy of the 1968 CSL, in the Council's possession¹, has also not been submitted.
7. However, the Council confirms² that the terms of the CSL granted in 1968, and the subsequent transfers in 1974 and 2019, restricted use of the site to 4 static caravans and 2 touring caravans between 20 March and 31 October annually. I also note that the 2019 CSL³ and plan transferred to the appellant states it is *based on the licence issued under Walsingham Rural District Council on 25 January 1968*.

¹ Council's Statement of Case (SOC) - Appendix A: Officer Report, Page.3, "Evidence held within the Council" – "Site Licence"

² Ibid Council SOC – Appendix A

³ Appellant SOC - Appendix 3

8. There is no convincing evidence before me to demonstrate that the site has operated outside of the CSL seasonal use restriction. Consequently, any LDC if granted would also need to be defined accordingly. I turn next to the dispute between the parties as to the number and types of caravans that occupied the site.
9. In his statutory declaration (SD) Mr Herbert states that he previously managed the site with his late wife. He refers to his SD exhibit (1) which comprises cash book income records for 7 consecutive years from 2002 to 2009. Rents are shown as income from 6 renters for each year. The significantly lower rent for one person, (Brown) in 2002/3, is inconsistent with the rents paid by the other five renters and this inconsistency is not explained. Moreover, none of the records in any years specify whether the caravans were of a static or tourer type. They also do not cover a continuous 10 year period of time.
10. He also refers to 5 aerial images ranging from 1999 to 2007 (SD exhibit 2) which he says show the 6 caravans to which the annual income rents shown in the cashbook refers. However, since the income records do not go further back than 2002, they could only directly relate to the images dated 2006, 2007 and 2008. The images in some instances are not very clear, however including the two from 1999 and 2000 they appear to show 6 static caravans in the same positions on the site. Consistent with that are aerial images⁴ from 1988 and 2009 (a lateral image from 2009 only shows part of the site) but these images are not referred to by Mr Herbert in his SD.
11. Overall, there is a lack of clarity in Mr Herbert's evidence. Although he states pre-2002 records were destroyed, he does not disclose in his SD when his management of the site began or ended and hence the full extent of his personal knowledge of the site is not clear. His first hand evidence from managing the site in his SD relates to a continuous period of only 7 years with further reference to separate images dated 1999 and 2000. The images in any event are only snapshots in time taken on particular dates rather than demonstrating use of the site over a continuous 10 year period of time.
12. Reference is made in the appellant's SOC to a 2010 aerial image said to be held by the Council showing 5 static caravans on site. However, it has not been submitted in evidence such that I could take account of it and moreover it could again only represent a single snapshot in time.
13. It is also argued that the existence of the 6 concrete bases for static size caravans adds evidential weight to the claim of there having been 6 static caravans. However, an assumption that the site hosted 6 static caravans for a continuous period of 10 years because 6 compatible concrete bases exist is speculative. While their existence shows *capability* of hosting 6 statics, the key issue in this case is how those bases were *actually* occupied. Consequently, the lack of clarity as to the type of caravans on site over a 10 year continuous period, including within the pre-application letter⁵ referred to by the appellant, does not add significant weight in support of allowing the appeal.
14. The appellant points to the Council not having any clear evidence that the site has not been used for hosting 6 static caravans. However, the onus is on the appellant to demonstrate lawfulness on the balance of probability. For the

⁴ LDC Application Statement: Appendix 2

⁵ Appellant's SOC: Appendix 2

reasons I have set out above I find the appellant's evidence is not sufficiently precise or unambiguous to demonstrate a continuous 10 year period of use of the site for hosting 6 static caravans.

Conclusion

15. 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 the site for the stationing of 6 No. static caravans as human habitation for holiday purposes at Galley Hill House, Langham Road, Blakeney, Holt, NR25 7PR was well-founded and that the appeal should fail. I will exercise accordingly the powers that have been transferred to me under section 195(3) of the 1990 Act.

APPEAL B: APP/Y2620/W/20/3255261

Background and Main Issue

16. Use of the land as a caravan site was granted by the Council (planning permission PF/19/0768) in September 2019. The permission restricted the use through the imposition of a number of planning conditions, including condition No. 3 (C3) which limits caravans on site to a maximum of 4 static caravans and 2 touring caravans. The reason for imposing the condition was: *To accord with the expressed intentions of the applicant and to prevent over-development of the site and to safeguard the character and appearance of the area in accordance with Policy SS 2, EN 1 and EN 2 of the adopted North Norfolk Core Strategy*".
17. The appellant does not seek to increase the total number of caravans permitted on site from 6, but rather that all 6 caravans could be static caravans. As such, this would require a variation of the terms of C3 rather than its removal.
18. The main issue is the effect of the proposed occupation of the site by 6 static caravans on the character and appearance of the area, with particular regard to the North Norfolk Coast Area of Outstanding Natural Beauty (AONB) and The Broads

Reasons

19. The appeal site is indicated by the red line on the location plan submitted with planning application PF/20/0293 (the same as PF/19/0768). Part of this land, at its north eastern end, forms the appeal site subject of Appeal A.
20. PF/19/0768 in effect extended the area of the existing caravan site to the south. The Council considered that the relocation of caravans from the north to the southern part of the site on a 'like for like basis'⁶ with appropriate screening, layout and landscaping would not result in overdevelopment or have an adverse effect on the surrounding landscape. It would also improve the setting of the main house. From my own observations of the site and the surrounding area I agree with that assessment.
21. However, contrary to the Council's position, I consider that the substitution of 2 touring caravans for 2 static caravans, resulting in the same total of 6 caravans, would make very little difference to the presence and visibility of

⁶ 4 static and 2 touring caravans

development within the site and the wider landscape overall. While the 2 static caravans would be larger than the tourers, the 6 caravans together would still be capable of adequate mitigation in terms of existing tree screening and hedgerow boundary treatment. As such, the proposal would not result in any significant intensification or overdevelopment of the site, or have any discernible adverse effect on the character and appearance of the surrounding landscape. Consequently, there would also be no conflict with the statutory purpose of AONBs which is to conserve and enhance the natural beauty of the area. For these reasons there would be no conflict with the requirements of Policies EC 10, EN 1, EN 2 of the North Norfolk Core Strategy (2008).

Conclusion

22. For all the above reasons I conclude that the appeal should be allowed. I shall therefore grant planning permission and impose a new C3 which requires the site to be used for no more than 6 caravans. Such wording would allow the site to be used for any mix of static and touring caravans, including up to 6 static caravans.

Other conditions

23. The PPG⁷ makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission where relevant. I shall impose all those that I consider remain relevant, making changes to the wording where required in the interests of clarity and enforceability to ensure that they meet the relevant tests. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. In accordance with section 73(5) of the Act, I have amended the commencement condition to ensure it does not have the effect of extending the period of time within which the development must be commenced.

FORMAL DECISIONS

Appeal A:

24. The appeal is dismissed.

Appeal B:

25. The appeal is allowed and planning permission is granted for change of use of land (paddock) to enable the relocation of an existing static caravan business at Caravan Site, Galley Hill House, Langham Road, Blakeney, Holt, NR25 7PR in accordance with the application, Ref. PF/20/0293, dated 17 February 2020, without compliance with condition number 3 previously imposed on planning permission Ref. PF19/0768, dated 26 September 2019, and subject to the conditions set out in the Annex to this decision.

Thomas Shields

INSPECTOR

⁷ Planning Practice Guidance

Annex A:

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from 26 September 2019.
- 2) The development shall be undertaken in accordance with the approved plans, drawings and specifications received by the Local Planning Authority on the 3 May 2019: Site Location Plan (Drawing No. Bunns1); Topographical Survey (Drawing No. 24169/001 Rev 0); Landscape and Visual Appraisal and Appendix dated April 2019 undertaken by Richard Morris Associates.
- 3) The maximum number of caravans on site shall not exceed 6 in total.
- 4) Any static or touring caravan placed on site shall be used for holiday accommodation purposes only and for no other purpose.
- 5) No static or touring caravan placed on site shall be occupied outside the period of 20 March to 31 October in any one year.
- 6) Prior to the siting of any static caravan on site, full details of the design and external appearance of the caravan shall be submitted to and approved in writing by the Local Planning Authority. The caravans shall then be sited in accordance with the approved details.
- 7) Prior to the commencement of the development hereby approved, a scheme for hard and soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall include plans at no less than 1:200 showing the following details:

SOFT LANDSCAPE

- a) existing trees, shrubs and hedgerows on the site, indicating those to be removed
- b) accurate plotting of those to be retained (including species and canopy spread), including measures for protection during the course of the development to BS5837:2012
- c) Details of all new planting including: species, location, number and size of new trees and shrubs
- d) Measures for protection of new planting

HARD LANDSCAPE

- a) Surface materials for vehicle and pedestrian areas
- b) Boundary treatments, including fencing, walling

The scheme as approved shall be implemented during the next available planting season (Nov-March) following the commencement of development or such further period as the Local Planning Authority may allow in writing.

- 8) There shall be no external lighting within the site other than in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

- 9) Prior to the first occupation of the development hereby permitted the proposed on-site car parking, servicing, loading, unloading, turning, and waiting area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 10) The existing hedgerow along the north western boundary of the site adjacent to Langham Road shall be retained and maintained, at a minimum height of 2 metres from ground level, for a period of not less than ten years from the date of this permission. Should the hedge die, or become seriously damaged or defective, a replacement hedge or other means of enclosure shall be provided in accordance with details and timescales which shall be submitted to and approved in writing by the Local Planning Authority.
- 11) Within 3 months of the first occupation of the proposed caravan site hereby permitted, the existing caravan site shall cease operation and all associated apparatus, structures, fences and hard surfaces shall be permanently removed from the land.

End of Conditions.