



Appeal Decision

Site visit made on 2 February 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 08 February 2022

Appeal Ref: APP/U3935/X/21/3284006

Blunsdon Caravan Park, Main Drive, Blunsdon Abbey Park, Swindon, SN25 2DU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Park Home Life Ltd against the decision of Swindon Borough Council.
 - The application ref S/LDP/20/0022, dated 7 January 2020, was refused by notice dated 28 June 2021.
 - 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 the use of land for siting of caravans.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The caravan park occupies a large area of land around the ruins of Blunsdon Abbey. In 1952 an application was made for a material change of use to a caravan park for land outlined in red, which is the whole of the current park and the same area covered by the LDC application. This land is divided more or less in two, the northern part is covered in static caravans, set alongside tarmac roads and also includes Blunsdon Abbey and a separate dwelling called the 'Penthouse'. This is the northern half of the site. The southern half is open fields with trees and a large pond on the southern boundary.
3. The appellant has made this application which is explained as being for an unrestricted use of the whole site for the siting of caravans. He has also made an application for a separate LDC for the siting of 112 caravans on the land which is not yet subject to an appeal. In his statement he suggests the 112 limit is considered as an alternative to unrestricted use, but in his final comments he asks that consideration of the 112 limit is delayed until the appeal against the refusal of the 112 certificate; the decision on this certificate I assume has now been received by the appellant. However, in order to determine exactly what has planning permission on the land I shall have to make reference to the various planning permissions and the limits on the number of caravans and so am bound to reach a view on the 112 limit even if I make no binding determination on it.

Reasons

4. The planning history of the site is important as it is virtually the only evidence as to what the lawful use of the site is. In 1952 an outline application

(1448/579) was made and granted planning permission for a caravan site at Blunsdon Abbey. This was granted subject to various conditions, one limiting the number to 100 caravans, one setting out a 100 foot buffer zone around St Andrew's Church, one requiring the submission of further detailed plans, although what they should be is not stated, and various others of no great interest to this appeal. The appellant points out that as the regulations stood in 1952, outline applications could only be made for buildings and not for a material change of use and there is no record of any 'reserved matters' or other plans being provided. Nevertheless the then owner and Council seemed to have proceeded on the basis that this was the establishing planning permission for the use as in 1953 an application (1542/673) was made for "Caravan site for 50 caravans.....". This appears to be a full planning permission and is not subject to any conditions. The plan that accompanied it shows the whole site outlined in red but a thin line separates the northern section from the southern and carries on to exclude the pond and other areas - possibly covered in trees. The northern half is marked out with roads and 50 caravan pitches marked, clustered around the Abbey ruins leaving some roads with no pitches. Two of the roads end in turning heads but one just stops at the boundary between the northern and southern halves of the site. I read this as an intention to first develop the northern half of the site but with an intention to go on to develop the southern half later, but excluding the pond and trees on the west, east and southern boundaries.

5. The site then changed hands and the new owner (Mr Goodearl), now long retired, has provided a statutory declaration to the effect that when he bought the land, he was told the 50 caravan application was for the reserved matters. No doubt this rather new concept was causing some confusion, but it seems clear to me it was actually a new full planning permission. The new owner then applied to increase the number of caravans from 50 to 60 (2839/1970) and that led to another full planning permission for "additional 10 caravans". The plan that survives is very faint but does suggest that the new pitches were on some of the roads that had been left unused in the northern half of the site. A site licence was also granted for 60 caravans.
6. The owner continued to increase the number of caravans on the site and in 1959 received another planning permission for a further 40 caravans. Records of this planning permission no longer exist, but there is no doubt it was granted and it is referred to in a subsequent (1966) site licence for 112 caravans. Both parties refer to it as being for "additional 40 caravans" and both consider the plans provided would have been similar to the previous ones, that is they showed more pitches in the northern half of the site. Finally in 1966 application 9274 was granted for "12 additional caravans" and a site licence for 112 caravans duly granted.
7. Mr Goodearl describes this process as if he were making a series of reserved matters applications to take him up to the maximum 100 caravans allowed by the original condition. The final application (9274) was a full planning permission for 12 extra caravans, to take him up to 112. However, he says he found he could not physically fit the extra 12 caravans within the road layout of the northern part of the site and so was going to develop new pitches to the south but in the end didn't bother as he had acquired several other park home sites in the area, and I assume, he was fully occupied with those. He does say that from time to time he did store caravans on land to the south of his dwelling 'Penthouse' – which would be on the southern part of the site as

- 'Penthouse' is on the boundary between the two – but this area had not been developed with roads and concrete bases etc so the storage was temporary.
8. Regardless of the confusion over reserved matters applications, it seems both the previous owners operated the site as if it were constrained by a condition limiting the numbers of caravans to 100. What it seems they did, therefore, was to make a series of applications for full planning permission for fixed numbers of additional caravans, culminating in the final 12 caravans in 1966. It would seem however this planning permission was never implemented and so it will now have lapsed. There is no evidence that 112 caravans were ever accommodated on the site.
 9. What I take from all this is that planning permission was originally granted for the whole red line area as a caravan site, with the number of caravans limited by condition to 100. It could be argued the status of this permission is somewhat dubious as it purported to be in outline and it is doubtful that reserved matters were ever applied for. Nevertheless, the next application was for a full planning permission for 50 caravans on the same red line site, but with plans showing only the northern half to be developed. Whichever permission is taken as the base permission, the whole red line site has planning permission as a caravan site. If the original outline permission survived then it had no limitations other than the 100 caravan condition, but this would have been overtaken by the superseding 50 caravan full planning permission (1542/673). If the original outline was never, technically, implemented, or was in some way ultra vires, then the 50 caravan full permission forms the new planning permission with no conditions limiting numbers of caravans.
 10. I accept the appellants view that limitations cannot be read into planning permissions, but it seems to me quite clear that the 1953 planning permission was for 50 caravans and 50 caravans only. I have been referred to various judgements, particularly *Tonbridge and Malling*¹ and *Lambeth*² which the appellant says supports the view that limitations cannot be implied into descriptions of development. In the *Tonbridge* case the courts made clear there were no limits implied or otherwise in the decision that could be said to circumscribe the number of caravans. *Lambeth* is somewhat different as it deals with a s73 application where the Council forgot to include all the old conditions from the previous permission that the new s73 permission was superseding, thus leaving the development with no condition restricting the types of goods to be sold.
 11. However, these are different from the case before me as I have already concluded there is no valid condition that limits caravan numbers. However, as Lord Carnwath in *Lambeth* points out a planning document is a legal document and should be taken, if possible, on its face value. The 1953 permission, is, like the planning permission granted in *Lambeth*, "clear and unambiguous". It is for 50 caravans. The subsequent planning permissions are also all clear and unambiguous being for "an additional 10 caravans" (2839/1970), an additional 40 caravans (3747/2878) and "12 additional caravans" (9274). I cannot quote the actual wording for 3747/2878 as the paperwork doesn't seem to exist, but everyone, including Mr Goodearl who made the application, describes it as being for additional caravans.

¹ *Tonbridge & Malling BC v Smith and Another CoA* (2016)

² *London Borough of Lambeth v SSHCLG* [2019] UKSC 33

12. In my view therefore, an LDC cannot be granted for unrestricted caravan numbers as the various planning permissions authorise up to a maximum of 112 units, albeit anywhere on the red line site. Had I been asked to consider an LDC only for 112 caravans I do not think I could issue that certificate either as, on the very limited evidence before me it does not seem as if the final 12 caravan permission was ever implemented. However, that is based solely on the evidence from Mr Goodearl.

Conclusion

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of land for siting of caravans 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.

Simon Hand MA

INSPECTOR