



Appeal Decision

Site visit made on 15 November 2023

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/U3935/X/23/3317540

Blunsdon Caravan Park, Main Drive Blunsdon Abbey Park, Blunsdon, 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.
- The appeal is made by Blunsdon Abbey Limited against the decision of Swindon Borough Council.
- The application ref S/LDC/22/1328, dated 31 August 2022, was refused by notice dated 9 January 2023.
- 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 described as 'The use of land for the siting of no more than 100 caravans for residential use (proposed use)'.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development (LDC) describing the proposed use which is found to be lawful.

Preliminary Matters

2. The application sought an LDC for a proposed use. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities. The planning merits of the proposed use are not relevant and the date for ascertaining whether the proposed use would be lawful is the date of the application.
3. The site for which the LDC is sought is identified edged red on the site plan submitted with this appeal (reference SLP/02B905718). This will henceforth be referred to as 'The Land'. The site is a substantial area located around the ruins of Blunsdon Abbey.
4. Two previous appeals have been made against the refusal to grant an LDC for a proposed use at the site. The first¹, dismissed on 8 February 2022 (henceforth referred to as the first appeal), was for a proposed use for the siting of caravans, without any limit on the number. The second², dismissed on 22 June 2022 (referred to as the second appeal), was for a proposed use as a caravan site for the siting of no more than 112 residential caravans.
5. The Land for this appeal is the same as for the first and second appeals. The Inspector in the first appeal dismissed on the basis that use of the site for an unrestricted number of caravans would not be lawful. Notwithstanding this, they also concluded that the various planning permissions which authorised the

¹ Appeal Ref: APP/U3935/X/21/3284006

² Appeal Ref: APP/U3935/X/22/3292022

siting of specified numbers of caravans, allowed them to be located anywhere within the site. The Inspector in the second appeal dismissed on the basis that there was insufficient evidence to demonstrate that a 1966 permission (ref 9274) for '12 additional caravans' had ever been implemented. The 12 caravans would have been in addition to those considered in the first appeal. The second appeal refers back to the first appeal and does not dispute its conclusions.

6. Many of the caravans currently on the site are double units, described by the appellant as 'Park Homes'. Neither the appellant, the Council or the previous Inspectors dispute that the units are caravans (ie they would meet the statutory definition of a caravan). On the evidence of my site visit, I would not dispute it either.
7. Planning law over the years has clarified that the 'siting of caravans' is not an adequate description of the use of land. What defines the use is the purpose of the siting, since different planning considerations arise depending, for example, on whether the siting of a caravan is for residential use, or is just being stored on the land, or being used as storage space.

Main Issue

8. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development (LDC) was well founded.

Reasons

9. In considering if the proposed use would be lawful, I first need to determine the established lawful use of the planning unit. I then need to consider if the proposal would result in a material change of use, which would require planning permission and hence would not be lawful.

Planning history

10. The planning history of the site dates back to the 1950s and 1960s and it is this history which forms the core of the presented evidence. This history is set out in detail in the appeal submissions. In summary, the 1952 outline application (ref 1448/579) granted permission for a caravan site, subject to various conditions. The conditions include restricting numbers to 100 caravans and maintaining a buffer zone to prevent caravans being sited within 100 feet of St Andrew's Church³, or 50 feet from the public highway. Subsequent full applications in 1953 (ref 1542/673), 1957 (ref 2829/1970), and 1959 (ref 3747/2878) granted permission for 50 caravans, an additional 10 caravans, and an additional 40 caravans respectively. These permissions come to a total of 100 caravans.

The planning unit

11. I need to establish if the whole of The Land for this appeal should be considered as a single planning unit or two distinct planning units. The north section of the site contains 86 caravans set out around tarmac roads, plus the Abbey ruins and a dwelling known as 'The Penthouse'. The south section of the site is an open grassed area, with mature trees around the boundary as well as dispersed across it, and with a pond on the south boundary.

³ As illustrated in Fig 2 of the Appellant Statement of case

12. I note that the entirety of The Land is in the same ownership and that caravan site licences (from 1966 and 2022) make specific reference to the planning permissions and cover the entire site. I am informed that the area to the south is used as amenity space for residents of the caravans. There are low wooden post and rail and mesh fences, and an open slat metal gate between the north and south sections. During my site visit the gate was unlocked, easily openable and I witnessed residents entering the south section on foot. I observed no strong or distinct physical separation between the two sections and there is a functional link between the north and south of the site.
13. I have been presented with no evidence which indicates the south of the site is used for any other purpose, except in association with the residential caravan site use, and no other use was evident from my site visit. On balance, while visually different in character, I conclude that the north and south of the site are occupied for a single main purpose, and not for substantially different, distinct or unrelated purposes. Consequently, I consider The Land for this appeal to be a single planning unit, with a single main purpose of the siting of caravans for residential use, with associated amenity space.

The established lawful use – The number of caravans

14. Having established that The Land is a single planning unit, I need to consider if permission is in place for the siting of no more than 100 caravans for residential use. Questions have been raised about whether the 1952 outline permission for 100 caravans remains valid. Notwithstanding this, both the Council and the site owner seem to have proceeded on the basis that the 1952 permission established the use of the site for caravans. The 1953, 1957 and 1959 permissions were all granted without conditions. In accordance with case law⁴, the meaning of a planning permission should be apparent from its face and limitations cannot be read into or implied by planning permissions. However, the decisions are of some age (and significantly predate the referenced case law) and each decision clearly and unambiguously states a number of caravans in the operative part of the permission. I am therefore satisfied that the applications, when taken together, are sufficiently precise in their descriptions to conclude that they allow for a total of no more than 100 caravans on The Land.
15. The plan with the 1952 and 1953 permissions clearly identify the site area to which the permission relates. It is the same area as The Land for this appeal and covers the sections to the north and the south. The plan for the 1957 permission is of very poor quality with an unclear boundary and I have been provided with no documents from the 1959 permission (though both parties agree the permission was granted). Given that the 1957 and 1959 applications refer to 'additional caravans' I consider it reasonable to conclude that the site area was the same as for the 1953 permission and corresponds to The Land subject to this appeal.
16. Due, I presume, to the age of the permissions which relate to this site, caravans 'for residential use' is not specified. However, from the available information it seems sufficiently clear to me that the permissions relate to caravans intended for residential use. Neither party, nor the previous Inspectors, dispute that the permissions relate to caravans for residential use and I have no reason to disagree.

⁴ Slough BC v SSE & Oury [1995] JPL 1128; I'm Your Man Ltd v SSE & North Somerset DC [1999] 4 PLR 107.

17. On the basis of the above, and on the balance of probability, I conclude that The Land for this appeal has been granted planning permission for the siting of 100 caravans for residential use. As The Land currently has 86 caravans sited, which appear to be in residential use, I consider each of the permissions to have been implemented.
18. On balance, taking into account all available evidence and relevant case law, I conclude that The Land has planning permission for the siting of 100 caravans for residential use.

The established lawful use – The location of caravans

19. I have established the planning unit, and that permission is in place for the siting of no more than 100 caravans. I now need to consider if the permission allows for the caravans to be located on both the north and south of the site.
20. The permissions decision notices (1959 not available) state that they permit development, in accordance with the plans which accompany the application. In light of relevant case law, as set out above, I am satisfied that the plans form part of the decision. The plan for the 1953 permission shows 50 caravans, plus roads located across only the north section of the site, with some of the roads having no caravans. The plan for the 1957 permission is of very poor quality but again seems to show caravans across the north section only, with additions to roads left without caravans on the 1953 plan. The current situation has caravans located only in the north section.
21. Notwithstanding this, I have to consider the fact that the permissions are for use of the site for the siting of caravans, which by their very nature, are movable. The permissions do not relate to operational development which would need to be in a specific location, as shown on plans. Therefore, in this case, while the plans define the area to which the permission relates, just because they only show caravans located to the north, I do not consider this to preclude caravans from being located elsewhere within The Land.
22. I have also considered the fact that the plan for the 1953 permission shows two of the roads terminate in clear and distinct turning heads which seems to indicate the intention for these roads to go no further. However, an additional road just stops as it heads towards the south section of the site and does not include a turning head. While it may not have been followed through on, I interpret this as an intention to develop the north section first before extending the road to develop parts of the south section at a later date.
23. I note the current caravan layout is not as per the plans, and on the evidence available to me (including aerial images), has not been for many years. The Council concede that "the detailed layout of the developed part of the site has evolved over time with some of the plots changing in size, as is the case of long term uses". Therefore, even if the plans could be construed as mandating a layout, I consider the site to have deviated from the plan layout for in excess of 10 years, so would now be immune from enforcement action anyway.
24. On balance, taking into account all available evidence and relevant case law, I conclude that The Land for this appeal has planning permission for the siting of 100 caravans for residential use and that those caravans can be located in the north and south of The Land (subject to the specified buffer zone). In this regard I agree with the findings of the Inspector in the first appeal.

Other considerations

25. The Council raise questions about whether parts of the site have been used for purposes other than siting caravans for residential use. This was also considered by the Inspector in the second appeal. In their decision, the Inspector makes reference to a sworn statement from 1977 which mentions use of part of the site for caravan sales and storage. I have not been provided with the sworn statement referred to by the Inspector in the second appeal. However, I note that the areas referred to as being used for sales and storage appear to be in the north of the site, not the south.
26. From the information available to me under this appeal, including aerial images and my site visit, I have no substantive evidence that would lead me to conclude that the site is, or has been, in mixed use. While some caravans may have been sold or stored on the site, I would consider such use to be a normal part of the operation of a caravan site and so incidental to the primary use.
27. I have found that The Land for this appeal has planning permission for the siting of 100 caravans for residential use and that those caravans can be located in the north and south of The Land. Consequently, the proposed use would be lawful. Therefore, I do not need to consider whether a change from the current situation of 86 caravans, up to the permitted number of 100 caravans, would constitute intensification, or whether any such intensification would be a material change of use.

Conclusion

28. For the reasons given above, I find that on the balance of probabilities, the proposed use of The Land for the siting of no more than 100 caravans for residential use, has planning permission and therefore would have been lawful on the date the application was made.
29. Accordingly, I conclude that, on the available evidence, the Council's refusal to grant a certificate of lawful use in respect of use of The Land for the siting of no more than 100 caravans for residential use, was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

H Davies

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 31 August 2022 the use described in the First Schedule hereto in respect of The Land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The Land has planning permission for the siting of no more than 100 caravans for residential use. The proposed use is therefore lawful.

Signed
H Davies
Inspector

Date: 27 November 2023
Reference: APP/U3935/X/23/3317540

First Schedule

Use of The Land for the siting of no more than 100 caravans for residential use.

Second Schedule

The Land at Blunsdon Caravan Park, Main Drive Blunsdon Abbey Park, Blunsdon, Swindon SN25 2DU

IMPORTANT NOTES – SEE OVER

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, would not have been 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:27 November 2023

by H Davies

Land at: Blunsdon Caravan Park, Main Drive Blunsdon Abbey Park, Blunsdon, Swindon SN25 2DU

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Scale: Not to Scale

