



Appeal Decision

Hearing Held on 22 November 2023

Site Visit on 22 November 2023

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 13th December 2023

Appeal Ref: APP/Q3630/X/23/3318998

Riverside Park, Wey Meadows, Weybridge, Addlestone KT13 8XY

- 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 Sines Parks Holdings Limited against the decision of Runnymede Borough Council.
 - The application Ref RU.20/0813, dated 17 June 2020, was refused by notice dated 8 March 2021.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is use of the land as a caravan site without limitation on the number of caravans that can be stationed on the land.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was agreed by the parties at the Hearing that the LDC applicant (and appellant) was in fact Sines Parks Holdings Limited, and not Sines Parks Luxury Living Services Limited, as a subsequent iteration of the LDC application form accepted by the Council had subsumed the earlier company details.

Main Issue

3. The main issue in the appeal is whether or not the Council's decision to refuse the LDC was well-founded.

Reasons

4. Planning permission CHE.23210¹, issued on 21 May 1971 ('the 1971 permission'), prohibits by way of condition more than 48 caravans at any one time being stationed on the land ('the 1971 condition'). The plan relating to that permission shows the land as being essentially the same as that in the appeal before me for which the LDC is sought. Compliance with the condition has been enforced by the Council by way of a Breach of Condition Notice (BCN) issued on 11 June 2015².

¹ The provision of 48 caravan hard standings and 24 riverside moorings together with parking facilities and play areas on land at Wey Meadows, Weybridge.

² The notice has not been quashed through successful application for judicial review, although it is agreed by the main parties (in line with Counsel's Opinion obtained by the appellant) that its validity can be challenged in these appeal proceedings were I to find in favour of the appellant's appeal arguments.

5. In essence, the appellant challenges the ability of the Council to enforce the 1971 condition with reliance on a legal principle established in *Newbury*³. In particular it is argued that permission CHE.23210 was not required due to the existence of a 1967 permission⁴ (which did not limit the number of caravans stationed on site) and that the development associated with the 1971 permission was in any respect permitted by a development order in force at the time (the Town and Country Planning General Development Order 1963 ('the 1963 Order')). As such, it is claimed, the appellant can rely on the pre-existing use rights associated with the 1967 permission and ignore the 1971 condition.
6. However, in LDC appeals the burden of proof is upon the appellant to satisfy me of lawfulness - with sufficiently precise and unambiguous evidence - to the required standard of proof ('the balance of probability').
7. The above *Newbury* principle only applies where the planning unit is the same. The appellant has not been able to provide a plan of the 1967 permission demonstrating the land subject to that consent. There is a plan associated with an earlier consent in 1962⁵, albeit not a 'red line' plan indicating the extent of the site. While the 1962 plan shows 12 caravans sited next to the railway track on a small part of what is now the appeal site (with the majority of caravans being stationed adjacent to the River Wey outside of the appeal site) there is not sufficiently precise and unambiguous evidence that the re-arrangement of caravans away from the river as consented by the 1967 permission was to be onto the same land as now constitutes the appeal site. The 16.753 acres annotated as the (non-demarcated) area of the 1962 site does not satisfactorily evidence that the land associated with the 1967 and 1971 consents was the same.
8. I am therefore not satisfied that the aforementioned consents dealt with the same planning unit. Even had the evidence led to a different finding, and in reference to the appellant's comments about the relevance of the 1963 Order to licenced caravan sites, I have seen no substantive evidence of a caravan site licence⁶ in place associated with the 1967 permission.
9. Indeed, the lack of evidence of such a licence is suggestive that the 1967 consent was not implemented. Here again the appellant has not met the burden of proof in making a case – notably I have seen no substantive evidence that the conditions of the permission were met. In particular, given that a stated reason for approval was to ensure that the land adjoining the river bank should not be permitted to become an established residential site, I find that the condition requiring the making of a Discontinuance Order in respect of caravan plots adjacent to the banks of the River Wey goes to the heart of the permission. It was agreed at the Hearing that there is no substantive evidence that any such Order was made.
10. Further, the 1967 aerial image submitted by the appellant does not in my assessment demonstrate implementation of the permission of that year (even were the application site clearly understood) as it looks relatively similar to the 1961 aerial image also submitted.

³ *Newbury DC v Secretary of State for the Environment* [1981] A.C. 578.

⁴ CHE.19977; *Re-arrangement of caravans*.

⁵ CHE.15424; *Use of the land as a caravan site*.

⁶ Caravan Sites and Control of Development Act 1960.

11. While the appellant places emphasis on the third party appeal submissions of Mr Hogg, the Chairman of the Riverside Park Resident's Association, his evidence is actually unhelpful to the appellant's case – Mr Hogg is clear, based on "eye witness accounts of three past residents of the site at Riverside Park Caravan Site who knew and visited the area and stayed at the original caravan site, and the son of the landowner in the 1950s through to the 1970s" that the 1967 permission did not result in any changes as regards the stationing of caravans upon the appeal site. Therefore, either the 1967 permission did not concern the same land as the appeal site or else it was not implemented.
12. It follows that the appellant has not demonstrated on the balance of probabilities that the 1971 condition is unenforceable by way of his *Newbury* principle arguments.

Conclusion

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development 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.

Andrew Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Boother (Associate Director, RPS)

FOR THE LOCAL PLANNING AUTHORITY:

Christine Ellera and Tom Coleman Fry (Assistant Development Managers)

INTERESTED PERSONS:

Graham Muggeridge (Secretary of the Riverside Park Residents' Association)

DOCUMENT submitted at the Hearing (by the Council):

- 1 LDC application form (first page only) with Sines Parks Holdings Limited stated as the applicant.