



Appeal Decision

Site visit made on 14 March 2024

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 20th June 2024

Appeal Ref: APP/J2210/X/22/3307263

Sea View Caravan Park, St Johns Road, Whitstable, Kent, CT5 2RY

- 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 Holidays UK Ltd against the decision of Canterbury City Council.
- The application ref CA/21/00802, dated 14 April 2021, was refused by notice dated 21 December 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 to determine that planning permission 14/01848 permits the development of holiday caravans unrestricted as to location within the area edged red on the original permission.

Decision

1. The appeal is dismissed.

Reasons

2. Seaview Holiday Park is a large holiday caravan park situated on the North Kent coast at Swalecliffe, between the towns of Whitstable and Herne Bay. For context, it lies within the development plan designated Herne Bay and Whitstable Green Gap separating the settlements. A sea wall with public footpath runs along the northern boundary of the site. The most recent planning permission for the use was granted on 28 October 2016 (the 2016 permission), permission ref. 14/01848, and it is evident that that permission was duly implemented. The 2016 permission was for "Use of land for caravan site including occupancy for holiday caravans to between 1st March and 31st January in the following year". This extended the seasonal occupancy period permitted. The permission was subject to conditions. Of direct relevance to the question posed by the application are condition 2, which requires that the development accord with 3 approved plans and a Flood Warning and Evacuation Plan, and condition 3 which limits the number of caravans to 644. The 3 approved plans are Drawing No. RUPC.1, which it is common ground identifies the location and extent of the land, outlined in red, for which planning permission was being sought, Drawing No. RUPC.2 which is a 'Google Maps' aerial image of most of the application site, and Drawing No. RUPC.3, which is the same as Drawing No. RUPC.1 but with the area subject to an earlier permission¹ for the siting of 71 caravans marked.
3. Although the site has an extensive planning history, up to 2016 it appears that no single permission governed the use of the overall site. However, the main parties are agreed that permission ref. 14/01848 is now the sole permission that controls planning matters on the site. In essence, the application seeks to establish whether this permission controls the location or siting of holiday caravans, which are

¹ Council Ref. CA/12/00700/VAR

occupied seasonally but sited all year round. At present caravans are, in the main, located within 2 discrete separate areas, with much of the remainder of the land being open and currently undeveloped.

4. There is no condition explicitly restricting the siting of caravans, but the Council considers that Drawing No. RUPC.2, the 'Google Maps' image which shows the caravan site as it was at about the time of the application, acts to restrict caravan location to how it is shown in that image or plan by virtue of the condition 2 requirement to accord with the identified plans. Drawing No. RUPC.2 has no title save the name of the site, so it is difficult, looking at the permission alone, to divine its purpose.
5. In construing a planning permission that is clear and unambiguous on its face, it is well established that regard may only be had to the planning permission itself, including the conditions on it and the express reasons for those conditions. The reason for imposing condition 2 is "To secure the proper development of the area", which provides little in the way of clarity regarding the purpose of Drawing No. RUPC.2, which indicates some ambiguity. If there is an ambiguity in the wording of the permission, it is permissible to look at extrinsic material, including the application, to resolve that ambiguity. There is ambiguity here in my view, namely a requirement to accord with plans whose purpose is unclear, largely because the approved plans have titles which identify them and nothing more. Looking solely at the planning permission, it would be unclear without more how condition 2 could be complied with, which in my view is sufficient to justify seeking clarity from the 2016 permission planning application. Looking then at the Supporting Statement accompanying that application, it is stated that "The application area comprises that parcel of land shown edged red on Plan RUPC.1 which includes the whole land ownership and extends to approximately 23ha. The extent of caravan development is illustrated on the Google map extract at RUPC.2." Drawing No. RUPC.3 is not referred to as an initial application plan, and it appears that it was submitted at the Council's request during the application determination period.
6. The application's purpose was clearly and solely to extend the period within which the permitted caravans could be occupied. Indeed the description of development applied for was "Extension of Seasonal Occupancy Period for Holiday Caravans to between 1st March and 14th February in the following year". Although it was a full application, the Supporting Statement requests that planning permission be granted for a variation of condition, possibly a reference to the relevant Caravan Site Licence seasonal occupancy condition. The Flood Risk Assessment, the site being largely located within Flood Zone 3, also refers to a condition variation only. From the Supporting Statement it is also clear that the caravans on the site were to remain sited as they were at that time. That would be clear also from the application form description of how foul sewage would be disposed of which stated: "Change of seasonal occupancy period only. No additional drainage requirements required." In arguing compliance with the development plan the Supporting Statement referred to saved Policies TC6 and R8 of the Canterbury City Council Local Plan (first review) (the CCCLP), which are concerned with maintaining the separating function and open character of Green Gaps. It stated: "This proposal has no material effect on either of these policies. The approved static caravans remain in situ all year round within their landscaped setting and will simply be used over an extended season for holiday purposes." The approved Flood Warning and Evacuation Plan, which includes a sequential evacuation plan for the caravan siting areas, is also predicated on the site layout as it was at the time, albeit the 71 caravan permission ref. CA/12/00700/VAR is not shown.

7. Having regard then to the application, it is clear that the permission relates to the area outlined in red on Drawing No. RUPC.1, and that the purpose of Drawing No. RUPC.2 was to show the areas on the site occupied by caravans and site infrastructure, none of which was proposed to change. Drawing No. RUPC.2 does not show all of the red line area on Drawing No. RUPC.1, nor are there any lines on the plan, but it clearly captures the layout of the site for the purposes of the permission and it is a useful and legitimate alternative to a conventionally drafted layout plan. In my judgement, in the context of the overall consent, and having regard to the application, including its purpose, a reasonable reader would be in no doubt that Drawing No. RUPC.2 is the approved layout plan for the site.
8. The Council's reason for refusing the application was because it considered that deviation from the layout shown on Drawing No. RUPC.2 would be a breach of condition 2. However, the permission is for a use of land and there are no conditions specifically precluding deviation from the approved layout plan once the use is instituted. Nonetheless, the layout plan is central to understanding the character of the use approved, which, reading the permission in a straightforward way including the conditions regulating the grant, is for an existing caravan site of a particular character, that is one where the permitted numbers of holiday caravans for seasonal use are sited in well defined spaces, the rest of the site being largely open. The purpose of condition 2 was to secure the proper development of the area, which I take as being to secure conformity with the development plan. Encroachment of caravan siting into the existing open spaces would be likely to have implications for conformity with the CCCLP Green Gap planning policies TC6 and R8, and given the proximity of the well-used public footpath any adverse effects on open character would be evident. Changes in layout would thus be capable of having material planning consequences, and the extent and nature of any changes could potentially amount to a material change in the character of the use of the land. Such a change would take the use outside of the scope of permission 14/01848.

Conclusion

9. The question posed by the application is whether planning permission 14/01848 permits the development of holiday caravans unrestricted as to location. Although layout is not restricted by condition, I have concluded that the approved layout is integral to the character of the use permitted by the permission. Whether any specific proposed change in the layout of the site would amount to a change in the character of the use such that it fell outside of the scope of the permission would be a matter of fact and degree for the decision maker. It follows that the permission cannot be construed as permitting the stationing of holiday caravans anywhere on the site, and the appeal cannot therefore succeed. Although I have not supported the Council's reason for refusing the application, for the reasons given above I conclude that its refusal to grant an LDC to certify that planning permission 14/01848 permits the development of holiday caravans unrestricted as to location within the area edged red on the original permission was well-founded. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Paul Dignan

INSPECTOR