



Appeal Decision

Hearing held on 10 July 2024

Site visit made on 22 January 2024

by James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th July 2024

Appeal Ref: APP/W3330/X/23/3320927

Blue Anchor Bay Caravan Park, Carhampton, Somerset TA24 6JT

- 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 Hoburne Ltd against the decision of Somerset Council (formerly Somerset West and Taunton Council).
- The application ref 3/05/22/002, dated 8 February 2022, was refused by notice dated 1 June 2022.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (1990 Act).
- The use for which a certificate of lawful use or development is sought is the siting of 34 no. holiday caravan pitches.

Summary decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

Background and Preliminary Matters

1. Whilst the appeal application was determined by Somerset West and Taunton Council, Somerset West and Taunton Council has since become part of Somerset Council, a newly formed unitary authority. Somerset Council is therefore the local planning authority for the area in which the appeal site is located, which is reflected in the banner heading above.
2. During the hearing, a revised description of development was agreed, which simplifies the proposed use and makes it clear that the use sought is the siting of 34 holiday caravans (or static caravans, as they are also commonly referred). I have used this updated description for the purpose of the appeal.
3. The appeal site comprises part of a caravan site which is located approximately 5 miles east of Minehead. Whilst the caravan site is long established, the planning history for the site is somewhat unclear, and includes a number of gaps. Nonetheless, the appellant says that the lawfulness of the proposed use can reasonably be deduced from the planning consents which do exist in connection with the wider caravan site.
4. As an application for an LDC, the burden is on the appellant to demonstrate their case, on the balance of probability. Planning merits are not relevant. I have considered the appellant's evidence in accordance with the principle established in *Gabbitas*¹. This says that where there is no evidence to contradict an appellant's version of events or make it less than probable, and

¹ *Gabbitas v SSE & Newham BC* [1985] JPL 630

their evidence is sufficiently precise and unambiguous, then it should be accepted.

Main Issue

5. In this context, the main issue is whether the lawfulness of the appeal site as a caravan site can be deduced from historic permissions, and if it can, whether there are any restrictions on the type of caravan which may be sited there.

Reasons

6. The appeal site is located within the north-eastern part of the caravan site. Its northern boundary runs alongside Blue Anchor Bay Road, which leads to the access into the caravan site. Its eastern boundary follows the path of the Pill River, and its southern and western sides are flanked by rows of static holiday caravans. A copse of trees, known as Pill Copse, also bounds the appeal site to the south-west. The site is currently occupied by a series of touring caravan pitches, and it also houses a toilet/shower block towards its centre. Given its enclosure on all sides, the appeal site is visually and physically integrated with the caravan site as a whole.
7. Planning permission was granted in 1957 (reference 36113) for "*use of land at Blue Anchor as a caravan site, together with the erection of an associated toilet block*" (1957 Permission). The parties have not been able to locate any plans which were approved under the 1957 Permission. However, the permission clearly references Plot 47 on its cover sheet, which corresponds accurately to an Ordnance Survey plot within the south-eastern part of the caravan park. Plot 47 does not include the appeal site. This suggests the appeal site is not comprised within the 1957 Permission, and the conditions attached to that consent would therefore not apply.
8. Whilst the 1957 Permission does not appear to relate to the appeal site, it is still helpful in determining the lawful use of the wider caravan site. Condition 8 of the 1957 Permission requires a landscaping scheme to be approved by the local authority "*before any of the additional caravans approved are placed on the land*". Given the reference to "*additional caravans*", it can be inferred that a caravan park already existed at the time of this consent.
9. Other records are consistent with this position, as they show planning permission was granted in 1955 for "*the erection of a recreation room at the caravan camping site*" (1955 Permission). It is implicit within this description that a caravan camping site already existed at the time of application. The location plan attached to the 1955 Permission clearly includes the appeal site within an area labelled "*caravan site*". The permission also references Plot 25, which corresponds to the Ordnance Survey reference for the same plot. As above, this suggests a caravan site, which encompassed the appeal site, lawfully existed at the time of this permission.
10. Planning permission was also granted in 1959 for the "*change of use of recreation hall to shop premises at Blue Anchor Bay Holiday Camp*" (1959 Permission). The plan attached to this permission is similar to the plan attached to the 1955 Permission, and again includes the appeal site within the denoted caravan site. The 1959 Permission is therefore also consistent with the appeal site forming part of the lawful caravan park at this time. The Council did not dispute this during the Hearing.

11. The site licence (ref C2/CHN/1) issued in 1986 lends further credence to the overall lawfulness of the caravan site. Under Part 1 of the Caravan Sites and Control of Development Act 1960 (1960 Act), a local authority can only issue a site licence if the land is lawfully permitted to be used in this way. It follows that a site licence would not be issued unless it had permission to be used as a caravan site.
12. The site licence only refers to the 1957 Permission. However, I do not consider this to be detrimental to the appellant's case, as the Council's own internal planning records made no reference to the permissions granted in the 1950s (which were instead retrieved by the appellant following a comprehensive search of archive records). In turn, it is entirely possible that the site licence would have referenced additional permissions relating to the caravan park, had they been known. In any event, the 1986 licence is the only known site licence in respect of the caravan park, and both parties have worked on the assumption that the whole of the site is governed by its terms and conditions. This is indicative of the whole of the caravan site being consented for such use, and the Council treating it as such.
13. None of the known permissions relating to the appeal site include any restriction on the type of caravan which may be sited there. The same is true of the site licence. Whilst the appeal site has been used to site touring caravans, this means there is nothing to preclude the appeal site being used to site holiday caravans instead, noting that both touring caravans and holiday caravans would meet the definition of caravan prescribed by s29(1) of the 1960 Act.
14. With the exception of the limit on caravans within the south-eastern part of the caravan park (which is governed by the 1957 Permission), there are no other known restrictions on the capacity of caravans within the remainder of the caravan park in any other planning consent. Notwithstanding this, the site licence does limit the overall density of caravans within the caravan park to 60 caravans per hectare of usable space.
15. When this limit on density is applied to the useable space within the appeal site, which is estimated to be 1.2ha, the appeal site could accommodate 72 caravan pitches without breaching the conditions of the site licence. This means the siting of 34 holiday caravans would fall comfortably within this threshold. Once again, the Council did not dispute this assessment.
16. Bringing these points together, the three permissions granted in the 1950s all evidence the lawfulness of the appeal site being used as a caravan site, a position which the Council accepts. There are no known restrictions on the type of caravan which may be sited within this part of the caravan park, which means the siting of holiday caravans in place of touring caravans would not impact on the site's lawfulness. The proposed number of holiday caravans would also be comfortably within the density thresholds prescribed by the site licence.
17. In turn, I consider that the appellant's evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probability, that use of the appeal site for the siting of 34 no. holiday caravan pitches would be lawful, and the Council has presented little evidence to contradict this position, nor make it less than probable.

Conclusion

18. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of the siting of 34 no. holiday caravan pitches was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

Formal Decision

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

James Blackwell

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Edward Grant, Cornerstone Barristers (Counsel)
Jeremy Lambe, Lambe Planning and Design (Agent)

FOR THE COUNCIL

Lewis Jukes, Magdalen Chambers (Counsel)
Paul Sherman (Council)

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 8 February 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The lawful use of the land as a caravan site can be inferred from historic planning permissions, and these permissions place no restriction on the type of caravan which may be sited there.

Signed

Mr James Blackwell
Inspector

Date: 10th July 2024

Reference: APP/W3330/X/23/3320927

First Schedule

The siting of 34 no. holiday caravan pitches.

Second Schedule

Blue Anchor Bay Caravan Park, Blue Anchor Road, Carhampton, Somerset TA24 6JT

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, was not 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 or operation 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.

