



Appeal Decision

Site visit made on 8 October 2024

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Appeal Ref: APP/P2114/X/24/3344796

**Silver Glades Caravan Park, Solent Road, Cranmore, Yarmouth,
Isle of Wight PO41 0XZ**

- 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 Silverglade Court Ltd against the decision of Isle of Wight Council.
 - The application ref 22/00627/CLEUD, dated 4 April 2022, was refused by notice dated 29 November 2023.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 as amended.
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is the use of the land as a caravan site all year round in breach of Condition 4 of planning permission reference TCP/7007D/SB/2371, dated 20 November 1975.
 - Condition 4 states: *This permission shall not authorise the use of the land as a site for camping or caravans except during the period from 1 March to 31 October in each year.* The reason given for the condition is: *To ensure that the caravans are used for holiday purposes only.*
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Initially this appeal was scheduled for an Inquiry because the appellant requested one but following my assessment of the case and the issues in dispute, I determined that it can satisfactorily be dealt with by the Written Representations method. This was communicated to the main parties by the case officer on 1 August.

Main Issue

3. The main issue, as usual in LDC appeals, is whether the Council's refusal was well-founded.
4. The appellant's case is that because of the way Condition 4 is written, preventing the use (its emphasis) of the caravan site outside the period of 1 March to 31 October each year, the physical features that have remained permanently on the site for at least the 10 years prior to the submission of the LDC application (the caravans, internal roads, footpaths, toilet block, car park and children's playground) mean that this Condition has been continuously breached – as a matter of fact – and consequently a LDC should be granted for permanent year round occupation of the caravan site.

5. The Council maintains that the purpose of Condition 4 is clear, the appellant has provided no evidence and indeed has not even argued, that the caravans have been continuously occupied for 10 years in the 'closed season' specified by the Condition. It also argues that the 1975 permission has been superseded in respect of two of the caravans by a subsequent permission in 1980, containing a better worded condition¹ that stipulates the caravans are not to be occupied (my emphasis) in this closed season.

Reasons

6. The appeal site, as shown on the 1:1250 scale red line plan submitted with the application, comprises a house named Silver Glades (formerly known as Kipp's) and what was originally its large rear garden (about 1.4ha in total area). It is located on the corner of Hamstead Road and Solent Road, partially surfaced roads giving access to detached houses in generally large plots, to the north off the main A3048 Yarmouth to Newport road, approximately 3.8km east of Yarmouth itself. The house itself, occupied by a caretaker of the caravan site when it is being used and which contains a site office in a rear extension building, now has a small garden but most of the site (to its north) comprises the caravan site.
7. The layout of the 10 caravans currently on site essentially matches the layout on the 1:500 block plan attached to the 1980 planning permission: 3 static caravans on the eastern part of the site next to the car park accessed off Hamstead Road and 7 static caravans on the western part of the site, although one of these had clearly been recently burnt to the ground since the site is not currently operating and has not been since the Covid pandemic. The new owners' representatives stated at the site visit that they were hoping to replace the 1990s-era caravans with newer ones in the near future. The Council makes no allegation that the caravan site use has been abandoned; it clearly has not been since it is being properly maintained, as I saw during my visit.
8. The Council maintain (in its delegated officer report) that the 1980 permission with its Condition 2 restricting the occupation of the caravans to only the 'open season' is also a relevant permission. It argues that this permission was implemented because it was a retrospective proposal, albeit the 3 caravans indicated as to be re-sited into the Copse north of the car park on the block plan were not actually moved there (although the one sited to the north of the toilet block has been removed). However, it is clear from the officer report that the store and staff caravans ('vans' on the block plan) were already there when the application was made, confirming the retrospective nature of the permission. This means that it was, as a matter of fact, implemented. The permission does not have had to have been completed in its entirety for it to be implemented, and so the failure to re-site the 3 vans onto the Copse does not in my judgement negate its implementation. Two of these 3 vans were the two southernmost caravans on the western part of the site, which remain there now, hence the 10 caravans on the site rather than the 9 in the 1975 permission. For this reason, I agree with the Council that Condition 2 of the implemented 1980 permission applies to these two caravans. That condition is not being challenged by the appellant in this appeal.

¹ Condition 2 of TCP/7007H/SB/10700 granted permission on 2 April 1980 for 'Re-siting of 3 No. caravans and siting of staff van and storage van'

9. The other 8 caravans on the site are subject to Condition 4 on the 1975 permission, which the appellant maintains has been continuously breached for 10 years for the reason indicated above. There is no doubt that the caravans and associated infrastructure (internal roads, footpaths, toilet block, car park and children's playground) have been on the site continuously for at least 10 years – indeed probably since 1980, albeit caravans may have been replaced by newer ones – preceding the submission of the LDC application.
10. The appellant's case, that the use of the land as a caravan site has continued because the caravans and all the site's associated infrastructure has remained there all the time during at least 10 years including in the winter closed seasons is based on or backed up by a single appeal decision contained in Appendix 19 of its Statement of Case² (the Castle View appeal decision).
11. I consider this argument to be illogical and far fetched for the following reasons. Whilst some caravan parks/sites are occupied all year round for permanent residential use, many of these had their origins as summer holiday camps, especially in holiday destinations like the Isle of Wight. That is why many of the early (certainly pre-1980s/1990s) planning permissions for such sites had conditions restricting the use of caravans to the spring and summer period. That is the case for this site in the original 1959 temporary permission (expiring on 31 October 1966), and the permanent 1975 permission.
12. The 1959 and 1975 permissions restricted the use of the land for camping or caravans to the period of 1 March to 31 October, whereas the 1980 permission restricted the occupation of the caravans (my underlining) to be only within that same period. Unarguably that is a clearer and therefore better wording of the restriction contained in Condition 2 of the 1959 permission and Condition 4 of the 1975 permission. That is because the intention of all three permissions was and has always been to restrict the occupation of the caravans at this site to holiday visitors, who are most likely to come in the spring and summer when the weather is warmer and the days longer.
13. It was never the intention – which would plainly have been unreasonable – in the 1959 and 1975 permissions for the caravans to be removed during the closed season and for all of the seasonal infrastructure (the toilet block, car park, internal road, footpaths, play area) to be demolished or dug up. What the relevant conditions of the earlier permissions meant, although clumsily phrased, was simply that the caravans themselves should not be occupied outside the spring and summer holiday season. That is backed up by the reason for imposing Condition 4 of the 1975 permission: '*To ensure that the caravans are used for holiday purposes only*'. People do not normally holiday on camping/caravan parks in the winter, for obvious reasons. Hence the change to restrict occupation of the caravans in Condition 2 of the 1980 permission, simply because that is a clearer verbal expression of what the conditions in the 1959 and 1975 permissions meant.
14. The Castle View appeal decision backs up the appellant's case because the relevant condition in that case also stated the '*permission shall not authorise the use of the land as a caravan site except during the period from 1st March to the 30th of November inclusive each year*' – which is why that appeal decision has been cited.

² APP/C1435/X/17/3190604 – Castle View Caravan Site, Eastbourne Road, Pevensey Bay BN24 6DT – Appeal Allowed on 8 January 2019

15. But I consider the Inspector's reasoning in that case to be nonsensical, illogical, and perverse. Plainly what was meant by the condition in that case and other such, admittedly somewhat similarly vague and clumsily worded conditions, was not that all caravans and associated physical infrastructure and facilities should be removed during the closed season sufficient to actually terminate the land's use as a caravan site, but simply that the holiday site's occupation should cease for the winter period. Structuring an appeal on this spurious argument amounts to an over-legalistic approach to the obvious meaning of Condition 4 of the 1975 permission, and essentially amounts to no more than nitpicking, notwithstanding that it is backed up by a previous (perversely reasoned) appeal decision.
16. An appeal decision is not caselaw. Caselaw sets out that the natural and ordinary meaning of words, including words in conditions, should be taken in the light of the context and in terms of common sense, rather than an overly legalistic forensic dissection.³
17. More fundamentally, caselaw also sets out '*that the test of whether the local planning authority would have been able or entitled to take enforcement action during the immunity period is central to a decision on whether a lawful right has accrued, both in relation to a s.191 or an appeal against an enforcement notice*'.⁴ In this case it would, I submit, have been impossible for the Council to have successfully served a Breach of Condition Notice or an enforcement notice anytime within the 10-year immunity period because the fact that the caravans were not occupied during the closed season would have meant that Condition 4 was to all intents and purposes being complied with.
18. Although it is true that the Castle View appeal decision supported the appellant's nitpicking, overly forensic interpretation of what a similar condition meant there, I would also point out that the Inspector in that case concluded that the relevant part of the caravan site had indeed been occupied in the closed season. That is not the case here – the appellant here makes no case that any of the caravans have been occupied in the closed season.
19. Even if I am wrong about the two southerly located caravans – that their occupation in the closed season is restricted by Condition 2 of the 1980 permission – my conclusions above regarding Condition 4 of the 1975 permission would also apply to these two. There has been no 10-year continuous breach of this condition.

Conclusion

20. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the use of the land as a caravan site all year round in breach of Condition 4 of planning permission reference TCP/7007D/SB/2371 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).

Nick Fagan

INSPECTOR

³ *Trump International Gold Club Scotland Ltd & Another v the Scottish Ministers* [2015] UKSC 74 and *Lambeth LBC v SSCLG & Aberdeen Asset Management & others* [2019] UKSC 33

⁴ *R (Ocado Retail Ltd) v Islington LBC* [2021] EWHC 1509 (Admin), paragraph 58