



Appeal Decision

Hearing held on 19 June & 06 September 2024

Site visit made on 05 September 2024

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/R1038/X/23/3332574

Pinegroves Caravan Park, High Lane, Tansley, MATLOCK, DE4 5BG

- 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 David Ray Limited against the decision of North East Derbyshire District Council.
 - The application ref 21/00465/LDC, dated 6 April 2021, was refused by notice dated 29 June 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: Use of land for the siting of static and touring caravans, without any control on the number of each.
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Decision

1. 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.

Applications for costs

2. An application for costs was made by Mr David Ray against North East Derbyshire District Council. That application is the subject of a separate decision.

Preliminary Matters and Main Issue

3. The appeal site relates to the Pinegroves Caravan Park which has a long history of use as a caravan site. Initially, the site location plan that accompanied the application encompassed the whole of the site, including the manager's dwelling and its associated grounds which is situated close to the entrance off High Lane. However, that dwelling was the subject of a stand-alone permission which distinguishes it from the remainder of the caravan park. Consequently, the site location plan was amended prior to the determination of the application to exclude the dwelling and its associated grounds and I have determined the appeal on the basis of that amended plan.
4. There is no dispute that the site benefits from a lawful use as a caravan site, including both touring and static caravans. The main issue between the parties relates to whether the extant permissions have the effect of controlling the numbers of static and touring caravans that can lawfully be sited on the land.

5. As with all CLOPUD appeals, the planning merits of the proposed use are not relevant to my decision and the main issue is whether the Council's decision to refuse the application was well-founded, having regard to relevant facts and caselaw.

Reasons

6. The planning history suggests that the site was in use as a plant nursery until 1984 when planning permission was granted for a "change of use to caravan site and an outline for associated facilities"¹. The parties agree that the permission was implemented, although the precise date of implementation is unknown. That permission was subject to 11 conditions, including condition 6 which is pertinent to the present appeal. That stated that "*The site shall be for touring vans for holiday purposes only and there shall be no permanent caravans or residential accommodation on the site without formal written consent of the Local Planning Authority*".
7. Whilst that condition does not set a numerical limit on the number of caravans that may be sited on the land in explicit terms the condition limits the use to touring caravans for holiday purposes only such that the siting of static caravans would represent a clear breach of its terms. Thus, in a round-a-bout way the condition did impose a numerical limit on the number of static caravans that could be sited and that number was zero. Thus, it is worth stating at the outset that if the 1984 permission and specifically condition 6 is still in force across parts of the site the proposed use, including unrestricted numbers of static and/or touring caravans, would not be lawful.
8. Reference to the *Adams*² judgment does not assist the appellant in that respect. In that case, the Council in question had previously granted a Certificate of Lawfulness for an Existing Use (CLUED) as a "touring caravan site". In doing so it did not expressly incorporate conditions attached to the extant planning permission into the description of the lawful use in schedule 1 of the CLUED certificate. One of those conditions entailed that the touring caravans could only be used for holiday purposes and should not remain on the land for more than 14 days in any calendar month.
9. The site owner subsequently applied for a CLOPUD for the siting of touring caravans, including those which were used as a person's sole or main residence. An appeal against the Council's failure to determine that application was subsequently dismissed. One of the grounds of challenge against that decision was that the Inspector was not entitled to go beyond the wording of the CLUED that had been granted. In other words because the CLUED had been granted without expressly referring to the conditions on the planning permission that the use could lawfully operate without conforming to those conditions.
10. Mrs Justice Lang DBE dismissed the claim. To summarise briefly, it was held that the grant of the CLUED could not be used to circumvent conditions imposed on an existing permission. Moreover, the Inspector was entitled to go beyond the scope of the words in Schedule 1, which described the lawful use, and interpret the remainder of the CLUED, including attached notes and

¹ Ref NED 584/359

² *Adams v SSHCLG & Huntingdonshire District Council* [2020] EWHC 3076 (Admin)

the extant planning permission in determining whether the use proposed in the CLOPUD would be lawful.

11. The Inspector correctly interpreted the CLUED and made reference to the extant planning permission before concluding that occupation of touring caravans as a person's sole or main residence would not be lawful due to the clear breach of the condition which continued to have effect. With reference to that judgment, Mr Rudd, for the appellant, appeared to suggest that a CLOPUD in the terms sought could be granted because it would still be incumbent upon anyone interpreting its terms to make themselves aware of conditions attached to any extant planning permissions.
12. However, the judgment doesn't entail that a CLOPUD can be granted for development that would contravene any extant conditions. For the reasons set out above, if condition 6 of the 1984 permission remains extant it would provide a clear restriction against the siting of any static caravans. A CLOPUD based on "the use of land for the siting of static and touring caravans, without any control on the number of each" would clearly go beyond what would be permitted by that condition. Thus, in those circumstances the proposed use of land as described in the application would not be lawful.
13. Accordingly, it is necessary to examine the planning history beyond the 1984 permission to ascertain whether condition 6 continues to have effect across parts of the site. A reserved matters application for toilet blocks and other matters was approved in 1987 but that is of no consequence to the present appeal. In 1989 planning permission was granted for a shop, office building and the siting of 17 static caravans³.
14. The site plan that accompanied that application related to specific blocks of land within the site, as opposed to the site as a whole and the parties agree it forms a stand-alone permission. No condition was attached to limit the number of statics to 17. The application form refers to operational development (presumably in relation to the shop and office building) and a material change of use. If the 1984 permission had been implemented at that point it is not clear whether the introduction of 17 static units would have amounted to a material change of use if considered in the context of a caravan park covering a much wider site. However, the application form refers to the land as being vacant and it may be that the 1984 permission had not yet commenced, in which case, the use of land for the siting of 17 static caravans could well have amounted to a material change of use.
15. In any event, given that the permission only covers a small part of the caravan park, its existence does not have any bearing on whether the use of the caravan park as a whole for any number of touring and/or static caravans would be lawful.
16. In 1994 Mr Thorpe, the then owner of the site applied for "Development of a further 5 static caravan pitches (for holiday use only – not residential", as described on the application form. The application was approved but the description of development in the decision notice was amended/ added to such that it read "Provision of 5 static caravan pitches (holiday use only) as an alteration to condition 6 (NED 584/359)". The decision was subject to four conditions, one specifying a time limit for commencement, two relating to

³ Ref: NED/1188/1120

landscaping and one seasonal occupancy restriction. It is not clear if that change was discussed with Mr Thorpe. The practice of amending descriptions being relatively common at that time, before the current requirement to agree such changes with an applicant was brought into being.

17. In my view the description of development in the decision notice gives a clear hint that what was being approved was an alteration or variation to condition 5. Such applications are commonly referred to in that manner even though, in technical terms, an application under s73 of the Act is for "the development of land without complying with conditions subject to which a previous planning permission was granted". However, I accept that there is some ambiguity from the description and it is appropriate in the circumstances to interpret the permission having regard to other relevant documents.
18. The form stated that the application was for full planning permission and the area of land was stated to be 0.10 hectares. The existing use was noted as a caravan site. Two plans accompanied the application. A site plan with a red line drawn around the whole of the caravan park with an area marked within it showing the proposed location of the 5 new static caravans. A more detailed layout showing how the caravans would be laid out was also provided.
19. The planning committee report stated that "*The applicant seeks consent to place on site 5 static caravans. This is to supersede a condition placed on the original planning approval for this site which sought to restrict the use of the site to holiday caravans only*".
20. The planning assessment within the same report also focussed explicitly on condition 6. The second and third paragraphs of that assessment stated:

The condition, restricting the use of the site to touring vans only was applied as permanent residential use of the site would be contrary to Structure Plan Countryside and Conservation policies and also housing policies which generally seek to restrict new residential development in the countryside. In this instance however as the site would not be visually intrusive and the applicant is prepared to accept a condition restricting the use of the vans to a period between 01/03 and 31/10 of each year, it is not considered that either the reasons for the original condition nor the visual amenities of the area would be unacceptably prejudiced.

Additionally, the proposals would support tourism promotion in the area and Central Government Guidance in the form of Planning Policy Guidance Note 21 advises that caravan parks are an important part in the self-catering holiday sector but they should only be permitted where there are no environmental or visual problems. It is my view these requirements are met by this proposal.
21. Having read that report, in conjunction with the amended description of the application given on the decision notice, I have little doubt that the Council determined the application on the basis that it was for a variation to condition 6 of the 1984 permission under s73 of the Act. I struggle to see what other form of development the application could have related to.
22. The Council contends that the words "*provision of*" in the description of the approved development could imply physical works such that the permission may have been for operational development. However, I find that implausible when one reads the associated report. The Council referred to caravans being

“placed on site” and clearly identifies that the application *“is to supersede a condition placed on the original approval”*. Thus, it appears that what was being considered was the siting of the static caravans as opposed to any operational development.

23. There is no suggestion anywhere that what was being considered was a material change of use. The existing use was a caravan site and the report focusses on the need for and justification for condition 6. There is no analysis to suggest that the Council considered the introduction of statics would bring about a material change of use. Likewise, there is nothing in the description of development approved or sought to state what the change of use entailed. In other words, what was the proposed use and how that differed from the existing use as a caravan site.
24. As with all of the applications submitted by Mr Thorpe, he appeared to act without an agent and the impression is that he filled the forms in as well as he could and set out clearly what he wanted in terms of the number of static caravans and their location. There are variations in how the forms were filled in for various applications. As a lay person the impression is that he was not particularly aware of the intricacies of precisely what form of development he was applying for. On the other hand the Council, as Local Planning Authority, could be expected to have a fuller grip on procedural requirements. Consequently, whilst there is a tension between some of the details on the application form and the wording of the decision, I attach more store to the way in which the Council described the application in the decision notice and the way the application was assessed and less to how Mr Thorpe completed the forms.
25. Thus, on the balance of probability, the 1994 application was to “vary” condition 6 of the 1984 permission and that is what the Council granted permission for. That approval took effect over the whole site in my view. It is common ground that an application under s73 constitutes an application for planning permission that results in a standalone permission capable of implementation⁴.
26. At the time the 1994 application was made the Town and Country Planning (Applications) Regulations 1988 were in force. Regulation 3(1)(b) required applications for planning permission to be accompanied by a plan identifying the land to which the application relates and any other drawings and information necessary to describe the development which is the subject of the application. However, under regulation 3(3)(b) applications for the variation of a condition did not need to be accompanied by a plan but simply had to provide enough information in writing to enable the local planning authority to identify the previous grant of planning permission and any condition in question. The obvious reason for that is that when dealing with an application under s73 the local planning authority can only consider the question of the conditions subject to which the original scheme was granted⁵. The original description of the development will remain the same, as will the area of land to which it relates. Essentially the same provisions apply to applications made today albeit that the legislation has changed⁶.

⁴ London Borough of Lambeth v Secretary of State [2019] 1 W.L.R. 4317

⁵ Section 73(2) of the Act

⁶ Town and Country Planning (Development Management Procedure) (England) Order 2015/595; article 7(1)(c)

27. Whilst there was much discussion at the Hearing regarding the way in which red line site plans should be interpreted, including reference to relevant caselaw⁷, there is no dispute that a site location plan was not required in relation to an application under s73.
28. The 1994 application was accompanied by two plans, a red line plan identifying the wider site and a plan identifying where the 5 static caravans would be located. The fact that Mr Thorpe submitted those plans when technically he didn't need to if the application was made under s73 does not indicate that the subsequent permission did not constitute a planning permission granted under that section of the Act. In any event, notwithstanding that the application form stated a site area of only 0.10 hectare, the red line location plan did cover the entirety of the caravan park, covering the same area as the original permission.
29. Thus, in my view, the planning permission granted by the Council in 1994 amounted to a "variation of condition" covering the whole of the caravan site. It was a stand-alone permission, subject to the four conditions attached. Whilst the description of development in the heading of the decision referred to the "provision of 5 static caravans" no condition was attached to limit the number of units.
30. A planning permission granted under s73 can only consider the conditions subject to which the original permission was granted and cannot change the operative part of the original permission which will remain. In other words when approving the 1994 application the Council granted planning permission for a change of use to a caravan site, that being the original act of development granted by the 1984 permission, without complying with condition 6. Had it wished to control the numbers of static caravans it could have imposed a condition to that effect but it did not do so. Equally, it could have imposed a condition limiting statics to a specific area of the site, in line with the detailed layout plan submitted with the application but it did not do so. Thus, the 1994 permission authorised the use of the land as a caravan site without any restriction on numbers or type of caravans but subject to a seasonal occupancy condition and conditions relating to landscaping.
31. Whether the Council realised that was the effect of the permission is doubtful; in my experience there was often confusion as to how to approach s73 applications at that point in time until later caselaw made clear the effect of such a permission. Nonetheless, whilst I have some sympathy with the Council in that regard, it does not alter the effect of the permission.
32. A number of further permissions were granted in respect of the caravan park following the 1994 permission but none of those impose any restriction in the number of caravans across the site as a whole. In 1997 planning permission was granted for the "*Construction of additional 9 static caravan pitches for holiday use*"⁸. There is no reference to variation of condition and the term "construction of" implies that permission was sought and granted for operational development in terms of the construction of the pitches themselves. There is no particular ambiguity in the description and the

⁷ R. (on the application of Wyatt) v Fareham BC, 2021 WL 02192846 (2021), LB of Richmond Upon Thames v R. on the application of Owolabi Ariyo [2024] EWCA Civ 960 & Barnett v SSCLG [2009] EWCA Civ 476

⁸ Ref: NED 797/0497

permission does not have a significant bearing on my decision in the present appeal.

33. In 2000 permission was granted for the "*Proposed siting of 9 new static caravans and the re-siting of 8 static caravans previously approved*"⁹. The red line plan covers a small section of the overall site, with the remainder of the caravan site edged in blue. Thus, the effect of the permission only relates to a small part of the caravan park such that it has limited bearing on my decision as a whole. I do have some difficulty in working out what act of development permission was granted for. The siting of a caravan is a use of land and not operational development. Given that the use of land was already a caravan site, with a mix of statics and touring units it is not clear that any material change of use would be involved across the planning unit as a whole. Part of the proposal was moving statics that were already in situ. There is no reference to any variation of condition, albeit that the supporting documentation provided is limited.
34. In any event, given that the application only related to a small part of the site and did not impose a condition restricting the numbers or type of caravans that could be sited, it has no significant bearing on the outcome of the present appeal.
35. In 2003 permission was granted for the "*Proposed variation of condition 6 of NED/584/359 for the siting of eight additional static caravans within the caravan park*"¹⁰. The permission was subject to three conditions, one regarding implementation, one to impose a seasonal occupancy condition and one relating to car parking provision. The red line site plan that was submitted with the application covered the whole of the caravan park.
36. It seems to me that there is little ambiguity on the face of that decision as to what the Council had granted permission for. It is clearly a planning permission to "vary" condition 6 under section 73 of the Act and even clearer than the 1994 permission in that respect. As such, I am not entirely convinced there is a need to interpret the permission with reference to other documentation but the parties have taken that approach and I shall consider the matter accordingly.
37. The application form was completed by Mr Thorpe, again with no agent. He described the proposal as being for the "*provision of eight new static caravan pitches*", ticked a box stating that the application was for full planning permission and another indicating that the proposal was for a material change of use. In section D which asked whether the proposal was to remove or change a condition attached to a previous planning permission he struck through the space provided on the form to provide an answer, which indicates that he did not think that was a relevant question.
38. Again, it is not clear whether there was any discussion between Mr Thorpe and the Council regarding the change in description but the change was made and the wording on the decision notice speaks for itself in terms of what was granted. The delegated officer report also clearly sets out that the proposal was being considered on the basis of a variation of condition 6 of the 1984 permission.

⁹ Ref: 00/00408/FL

¹⁰ 03/00567/FL

39. As above, the description of development approved refers to the siting of static caravans which would amount to a use of land and not operational development. The terms clearly relates to placing the caravan on the land as opposed to any form of physical construction.
40. There is no hint within the assessment that the Council considered a material change of use was proposed. The report describes the existing use as having a mix of touring and static caravans and notes that the proposal would not have a significantly greater urbanising effect. There is undoubtedly only a single planning unit which is the whole of the caravan site. By that point in time there would have been approximately 40 static caravans sited on the land, in addition to a substantial number of touring units. In the context of the planning unit as a whole the additional 8 statics that Mr Thorpe proposed would not have significantly altered the mix to a degree where the nature of the use changed substantially.
41. Certainly, neither party has provided any convincing argument that what was considered amounted to a material change of use. If that was the case, it is not clear from the decision notice or the officer report or the application form what new "use" was being permitted or how that differed from the existing use in the context of the planning unit.
42. As with the 1994 permission the strong impression is that Mr Thorpe did his best filling in the application form but the planning department determined that the correct form of dealing with the application was on the basis of a variation of condition. Having dealt with it in that manner the Council, perhaps unwittingly, granted a free-standing planning permission for use as a caravan site without any conditions restricting the number and type of caravan. The permission took effect over the entirety of the site.
43. I appreciate that my conclusion on the 2003 permission differs from that of both parties. It is very difficult to reconcile the difference between what was stated on the application form and the description of development in the decision notice and officer report. However, the decision notice clearly expresses what was eventually approved by the Council and that was a permission under s73. On the balance of probability, especially given the absence of any obvious material change of use or operational development, that is the effect of the permission.
44. The final permission of relevance was granted in 2009 for the "*Extension to existing toilet block to form ladies only block and construction of new mens [sic] toilet block and construction of 7 additional static caravan hardstandings with services and extension to access roadway*". The words "construction of 7 additional static caravan hardstandings" implies that permission was granted for the operational development involved and that wording broadly corresponds with that on the application form. The form of wording is distinct from reference to "siting of" in the 2003 permission. It could be that those involved at the time took the view that there was no need for permission to "site" additional static units on account of the effect of the 1994 or 2003 permissions, such that permission was sought for operational development as opposed to the use.
45. The officer report has not been provided to shed any further light in that respect but I see no reason to take the decision other than at face value which

is for the operational development as opposed to a variation of condition or material change of use.

46. It is also worth noting that one can clearly see the evolution of the caravan park on the ground, as was evident at my accompanied site visit. The incremental increase in static units is evident across the different areas of the park and it is possible to see where caravans identified on plans in relation to each permission have been sited. In other words, the evidence suggests that each permission was acted upon and implemented. That does leave the question of which permission or permissions are extant across the site. Having regard to the principles of the *Newbury* judgment¹¹ it may be that further applications to site static caravans on the land were unnecessary once use rights in that respect had been established by the 1994 permission.
47. However, this is not a matter that I need to reach a finding on in order to determine the present appeal. Either the 1994 permission or the 2003 permission would authorise the siting of an unrestricted number of static units across the site and none of the other permissions which relate to distinct parts of the planning unit contain a restriction in the number of statics, nor are they inconsistent with either the 1994 or 2003 permissions. The Council does not dispute that it would be lawful to site touring units on the parts of the site covered by "inset" permissions for the siting of static units or construction of hardstandings¹². In other words, whichever of those permissions is extant it does not alter my conclusion that the siting of static or touring caravans, without control on the number of either, would be lawful, across the planning unit as a whole. There are other conditions attached to the various permissions, including seasonal occupancy conditions, but none of those go to the heart of the question that is of relevance in this appeal in terms of the type of caravans that may be sited on the land.
48. Overall, the planning history is confused and difficult to interpret, as reflected in the level of legal representation on both sides and the detailed discussion at the Hearing regarding the various historic permissions. There were variations in the way application forms were completed, the extent of the site when identified on plans and in the way in which the Council processed the applications and described the development it was approving. It appears to me that Mr Thorpe knew what he wanted to do which was to incrementally increase the number of static caravans at various stages.
49. However, that is not the effect of the 1994 and 2003 permissions that were granted by the Council. On the balance of probability, they permit the carrying out of development without complying with condition 6 of the 1984 permission. They have effect over the whole of the caravan park and no conditions were attached to limit the numbers of touring or static caravans on those stand-alone permissions.
50. Quite late in proceedings, the Council advanced the argument that it would not have been lawful for a permission under s73 to vary the terms of the 1984 permission in that manner because to do so would have resulted in a material change of use and development that was fundamentally different to the scope

¹¹ *Newbury District Council v SSE & Newbury District Council v International Synthetic Rubber Co. Ltd.* [1980] 2 W.L.R 379, [1981] AC578

¹² Paragraphs 5.7.5 to 5.7.7 of the Interim Submissions of the LPA, dated 28 June 2024

of the original consent. That was with reference to the *Barton Park Estates Ltd* judgment ("Barton Park")¹³.

51. However, there are clear differences between the 1984 permission and the permission governing the site in the relevant permission in Barton Park, specifically with regard to the operative part of the description of development approved. In Barton Park planning permission had been granted for a "*Proposed site enhancement scheme involving an amendment of existing provision at site to allow for 9 residential vans, 16 holiday chalets, 18 static vans & 30 touring units at Magpie Caravan Park....*". Whilst the description of development was very specific, none of the conditions attached to the permission limited the number of residential caravans that could be sited on the land.
52. The site owner subsequently, applied for a CLOPUD for the siting of up to 80 caravans for the purposes of human habitation. Notwithstanding the absence of a condition the Inspector held that the description of development could not simply be disregarded. It did not automatically follow that siting more residential caravans than described in the decision would be unlawful but the correct approach was to consider whether what was proposed would constitute a material change of use. She subsequently determined that would be the case in relation to the proposal in question, such that it would not be lawful. In other words, the proposed use fell outside the scope of the extant permission. That approach was held to be sound in the Court of Appeal.
53. The present appeal is notably different. The operative part of the 1984 permission permits a "*Proposed change of use to caravan site....*". There is no reference to the number or type of caravans. Condition 6 was imposed and had the effect of limiting the use to touring caravans only. Thus, when read as a whole, the 1984 permission permitted a "caravan site" with a limitation imposed by condition.
54. In determining an application under s73 a Council can only consider the question of the conditions subject to which the planning permission should be granted. The operative part of the description is a caravan site and that would remain the case whether it was occupied by static caravans, touring caravans or a mixture of both. If the Council deemed that condition 6 was no longer necessary or met the relevant tests for conditions, I see no reason why it would be unlawful to grant a permission under s73 without that attached restriction. The permitted use would still be a caravan site and would fall within the scope of the planning permission originally granted in terms of the operative use.
55. That is quite different to the Barton Park case where no condition was imposed and the Inspector had to consider whether a material change of use would have occurred based on the very specific description of development in the operative part of the permission. Accordingly, reference to the Barton Park case does not dictate that the 1994 permission or the 2003 permission were unlawfully granted in my view. They remain stand-alone permissions that were implemented and there has been no challenge to their validity in the Courts. I see no reason why the current or any future owners would not be entitled to operate the site within the terms of those permissions.

¹³ Barton Park Estates Ltd v SSHCLG & anon [2022] EWCA Civ 833

56. I would also add that at no point in proceedings did the Council seek to explain how the character of the site would be different if occupied entirely by static units or by a much greater number when compared to the present use. Perhaps because the Barton Park/ material change of use argument did not occur to them until late in the day.
57. Unlike the Barton Park case, the seasonal occupancy condition at the appeal site applies equally to static and touring caravans. As was evident at my site visit all of the touring units, with their associated awnings are occupied on seasonal pitches such that the caravans generally stay in situ over the year as opposed to coming and going. Thus, the way in which the two types of unit are utilised is not necessarily different, nor would associated travel patterns necessarily be different. There is a difference in appearance but the site is very well screened and those differences are not readily discernible from outside the site. As such, the circumstances of the appeal site are not readily comparable with the Barton Park case and reference to it does not alter my conclusion on the lawfulness of the proposed use.

Conclusion

58. For the reasons given above I conclude, on the evidence available that the Council's refusal to grant a certificate of lawful use or development in respect of the use of land for the siting of static and touring caravans, without any control on the number of each, 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).

Chris Preston

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 06 April 2021 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:

Planning permission was granted on 31 July 1984 for the “Proposed change of use to caravan site and an outline for associated facilities”, subject to 11 conditions, none of which sought to control the number of caravans that could be sited on the land apart from condition 6 which stated that the site “should be used for touring caravans for holiday purposes only with no permanent or residential occupation”, thereby preventing the siting of any static units.

Subsequent to that permission, the Council granted planning permission in 1994 (LPA ref: NED 1094/0747) to carry out the development permitted by the 1984 permission without compliance with condition 6. That amounted to a stand-alone planning permission under s73 of the Town and Country Planning Act 1990 which authorised the use of the land as a caravan site subject to four conditions, none of which controlled the number or type of caravans that can be sited on the land. Furthermore, whilst the application may have been unnecessarily made, having regard to the effect of the 1994 permission, a further permission to carry out the development permitted by the 1984 permission, without compliance with condition 6, was granted on 26 June 2003 (LPA ref: 03/00567/FL), subject to three conditions, none of which place a restriction on the number or type of caravans that may be sited on the land. As such, having regard to the effect of those permissions, whichever is in force, the land could lawfully be used as a caravan site, without control on the number and type of caravans but subject to the other conditions attached to the extant permission.

Numerous other “inset” planning permissions (LPA references: NED/1188/1120, NED 797/0497, 00/00408/FL & 09/00754/FL) relating to development on particular parts of the site have been granted but none of those place any restriction on the number or type of caravans that can be sited on the planning unit as a whole. Accordingly, the proposed use of the land for the siting of static and touring caravans, without any control on the number of each, would be lawful, providing that the use complies with any other relevant conditions that may be extant.

Signed

Chris Preston

Inspector

Date: 11 December 2024

Reference: APP/R1038/X/23/3332574

First Schedule

Use of land as a caravan park for the siting of static and touring caravans, without any control on the number of each (but subject to any other conditions and limitations as may apply in relation to extant planning permissions in respect of the operation of the caravan site).

Second Schedule

Land at Pinegroves Caravan Park, MATLOCK, DE4 5BG

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 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.

Scale: Not to Scale



APPEARANCES

FOR THE APPELLANT:

Mr Michael Rudd	Of Counsel
Mr Nayan Gandhi	Director, Laister Planning
Mr Nick Laister	Managing Director, Laister Planning
Mr David Ray	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant	Of Counsel
Mrs Susan Wraith	Planning Consultant