



Appeal Decision

Inquiry Held on 4 February 2025

Site visit made on 4 February 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/P2114/X/24/3353456

Brighstone Holiday Centre, Military Road, Brighstone, Isle Of Wight

PO30 4DB

- 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 in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Felix Connor on behalf of Brighstone Holiday Centre against the decision of Isle of Wight Council.
 - The application Ref: 23/01220/CLEUD, dated 17 July 2023, was approved by the Council by notice dated 16 October 2023.
 - The application was made under section 191(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 the "Continued use of caravan site in accordance with planning permission ref: P/02032/05."
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Decision

1. The appeal is dismissed.

Procedural matters

2. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's decision was well-founded. The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance in the context of an appeal made under section 195 of the 1990 Act as amended. The appellant must show, on the balance of probability, that the development at the date of application is lawful.

Main Issue

3. The main issue is whether the Council's decision to grant the LDC for the area shown in red on the block plan only was well founded.

Reasons

Background to the LDC

4. The appeal relates to the issue of a LDC by the Isle of Wight (IOW) Council confirming that development permitted in 2005 under Council reference

P/02032/05¹ (the 2005 Permission) was lawfully commenced, and carried out thereafter, on a continuous and permanent basis. However, the LDC included in Schedule 2, the limitation that the lawful development was confined to the land edged red on the block plan attached to the 2005 permission, whereas the appellant submitted that the relevant land is that shown edged in red on the site location plan, encompassing the whole Holiday Centre site.

5. Therefore, the single matter in dispute is whether the reasonable interpretation of the permission that was granted in 2005 for the continued use of land within Brighstone Holiday Centre for the provision of touring caravan pitches limited the development to land within part of the Holiday Centre, as shown on the submitted 2005 block plan (and approved by the Council), or whether such an interpretation indicates that the permission should apply to the entirety of the Holiday Centre, as outlined in the 2005 site location plan.

Background to Brighstone Holiday Centre

6. Brighstone Holiday Centre, situated on the South coast of the IOW, is approximately 2.22ha in area, and includes a narrow strip of land to the south-west encompassing a dog activity area. The Centre hosts various chalets and accommodation buildings associated with the Holiday Centre and includes associated facilities including kitchens/washing up areas, toilets and a swimming pool. Towards the centre of the site are three hard standing caravan pitches, accessed along an internal access road, and an open grass field used for a mix of camping and caravan purposes.
7. The site has a long history, having been identified as holiday centre originating before WWII. However, most pertinent to this Appeal, is the 2005 permission for the "continued use of land to provide touring caravan pitches", issued on 15th December 2005. This permission was subject to two conditions:

- 1) *"The area outlined in red shall be used for the siting of holiday caravans only."*

Reason: In the interest of the visual character and appearance of the site and to ensure the continued use of the site for holiday purposes in compliance with Policy C1 (Protection of Landscape Character), C2 (Area of Outstanding Natural Beauty) and T1 (The Promotion of Tourism and the Extension of the Season) of the Isle of Wight Unitary Development Plan."

- 2) *"The site shall only be used for the siting for visiting touring caravans and at no time for the storage or siting of mobile homes or touring caravans on a permanent basis."*

Reason: In the interests of the protection of the visual character of the area and to comply with Policy C1 (Protection of Landscape Character) and C2 (Area of Outstanding Natural Beauty) of the Isle of Wight Unitary Development Plan."

¹ Planning permission Ref: P/02032/05 for "Continued use of land to provide touring caravan pitches", issued on 15 December 2005.

Interpretation of the 2005 Permission

8. The general principle is what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense.

The Plans incorporated into the permission

9. The main disagreement in this appeal arises from the fact that incorporated into the 2005 Permission are two plans with red line boundaries; the site location plan and the block plan, both showing different red line boundaries and areas. Therefore, the decisive question is which is the correct red line.
10. Also incorporated into the permission is a second version of the location plan with a green outline, which is part of the Council's online planning file on the planning register and forms part of the same document as the location plan outlined in red. Therefore, both location plans are incorporated into the permission. It is unclear why there are two such location plans, or the order in which they were submitted. Indeed, green is not a standard colour for site boundaries in planning applications, and it is highly unusual to require two location plans.
11. Focussing on the two plans with red line boundaries, the block plan shows where the applicant was seeking to put caravans with twelve caravan pitches are shown, with caravan hook-ups also labelled. Furthermore, whilst only 12 pitches are shown, more land is available within the red line area for siting of caravans to the north and south of those pitches marked up. Therefore, the block plan is the only plan which shows where caravans were actually intended to be sited.
12. During the Inquiry, when asked what the purpose of the block plan was, and why the block plan has a red line area around it, the appellant responded that it broadly shows where caravans were likely to be sited, but it does not reflect the full extent of the site. However, I am not persuaded by this, since the plans could have shown the pitches without the red line on the block plan. Alternatively, the applicant could have used a label to illustrate this or any other colour to identify the caravan pitches.
13. In normal circumstances red lines are used to distinguish the area over which planning permission is sought, whereas blue lines are used to highlight all other areas owned by the applicant but do not form part of the application. In this respect, it is more likely that the red and blue lines on the block plan were intentional to distinguish the relevant application site, referred to in the planning conditions attached to the 2005 permission.
14. I appreciate that the blue line does not fully reflect the full site ownership at the time. Nevertheless, the blue line area does show the majority of the site, in the applicant's ownership at the time, save for the dog exercise area positioned adjacent to the coast, and it is clear from the application form, and the contradictory nature of some of the statements made within that form (as explained below) that he was not professionally represented. There is no other convincing reason to explain why the applicant drew a red line on the block

plan in the location that the line is drawn. Conversely, the location plan was still necessary to identify the site address.

15. For the above reasons, and on the balance of probabilities, it is more likely that the red line on the block plan is intended to delineate the extent of the permission.

Location plan – statutory requirements

16. The appellant considers that only the location plan meets the statutory requirements for identifying the application site, at the time of the application. Nevertheless, both the location and the block plans were accepted as valid at the time by the Council, and both plans adequately identify the location of Brighstone Holiday Centre.
17. Indeed, the block plan does identify the land to which it relates because it shows the coastal road to the north, the coast to the south, annotated with the words 'coastal path,' and the field boundaries with the adjacent agricultural fields on either side. I also note that the Brighstone logo with an image of a lighthouse is located on the bottom left of the plan. Whilst the logo is slightly blurred, the block plan does identify the land to which it relates and the relationship of the layout with the existing surroundings.
18. I appreciate that a location plan typically identifies the application site. However, on this occasion, the relevant application site and planning permission is ambiguous since there are two plans with contradictory red lines. Therefore, it is necessary to look beyond both plans and examine the application and contemporary extrinsic material to resolve the ambiguity².

Application form

19. To understand what was intended by the permission it is lawful to look at all the incorporated documents and both parties agree that the application form is incorporated into the 2005 permission by way of reference. I shall therefore examine the key matters.
20. The address of the application site is given as Brighstone Holiday Centre, which is the address where the application site is located. This does not tell us anything about whether the application site is for whole or part of the land at that address and therefore does not provide clarity as to which is the correct red line.
21. The site area is given as 0.1ha³, which does not reflect the red line of the block plan (approximately 0.23ha) or the area of the entire Holiday Centre (approximately 2.22ha). However, it is inconceivable how the applicant and owner at the time could have believed that the entire holiday centre was only 0.1ha, whereas it is possible for the applicant, without any professional agent, to consider that the smaller area outlined in red of the block plan was this size.
22. Furthermore, the application form states that they are seeking a maximum of 25 touring caravans⁴ (my emphasis). Thus, he is referring expressly to a maximum rather than saying he anticipates 25 caravans on a regular basis. However, the appellant considers that this demonstrates that the application

² R (Ashford) Borough Council v Shepway 1999 CD 5.6.

³ Section A4 of the application form.

⁴ Section C9 of the application form.

was seeking permission for the entire holiday, since, in their professional experience, it is not possible to accommodate this number caravan pitches within 0.1ha.

23. In relation to this, the Council and the Joint Parish Council's statement highlight that the Camping and Caravanning club standard pitch is 8m x 5m (40m²). Given that the total maximum touring caravans the applicant requested was 25, this equates exactly to 1000sq.m (0.1ha) which is the area given by the applicant in answer to the site area. Furthermore, the drawing on the block plan identifies 12 pitches but there is additional space within the red line area to accommodate further touring caravans if required. I also note that the site licence plan⁵ demonstrates how 20 pitches can broadly fit into the red line area of the block plan, and therefore an application for a maximum of 25 touring caravans would not be unreasonable in this context.
24. As such, both references to '0.1ha' and '25 touring caravans' suggests only the limited, relatively smaller area of the site of the block plan was being applied for, and not the whole site. On the contrary, if permission were sought for the entire site, it is clear, based on the size of the site and the calculations above, many more pitches could have been accommodated and applied for.
25. The appellant highlights that the Council's licensing requirements indicate that a greater area than the block plan would be required to accommodate 25 caravans. However, there is nothing in the application that outlines the applicant sought advice from the Council's licensing team or that he dealt with that level of precision, especially given that there was no professional assistance from a planning consultant.
26. The applicant ticked that they did not own or control any adjoining land⁶. The application form then states to indicate any area owned or controlled on adjoining land on the site plan in blue. Contrary to this tick box answer, he outlined most of the Holiday Centre in blue on the block plan. The reason for this discrepancy is unclear. However, since the applicant was not professionally represented, it is possible he simply ticked the wrong box. Indeed, under section A8, he incorrectly ticked that the development has not already started whereas earlier in the same form he confirmed he was seeking consent for the 'continued use' of the land, and both parties agree that the development had begun at the date of the application. This illustrates that the applicant, who had no professional assistance, may have ticked the wrong box on this occasion.
27. The applicant described both the existing and proposed use as a 'Holiday Camp⁷.' In so far as he states there has been, nor would be a proposed change of use away from a holiday camp use, strongly indicates that the application was more likely relating to the smaller area of land on the block plan for touring caravans, incidental to primary use of the overall use as a holiday camp. Indeed, there is no clear evidence that the applicant sought to change the use of the whole site. The applicant answered a number of questions saying that there are to be no changes to access to the highway, trees and drainage and that they already have a car park. Those questions also support this, in so far as these features already existed as part of the existing lawful Holiday

⁵ Site Licence 2018.

⁶ Section A5 of the application form.

⁷ Section C8 of the application form.

Camp use and therefore there was no need to seek planning permission for these supporting features and infrastructure.

28. Therefore, on the balance, the application form, overall supports the Council's contention that the relevant site area is the land edged red on the block plan.
29. Whilst the documents incorporated into the permission (the plans and the application form) support the Council's view that the extent of the permission is the red line on the block plan, nevertheless, there are two different plans with two different red lines area. Therefore, it is necessary to examine contemporary extrinsic material to resolve the ambiguity⁸.

Aerial photographs

30. The 2005 permission was for the "continued use of land to provide touring caravan pitches" and therefore the permission was retrospective. In this regard aerial photographs from around this time provide a useful snapshot of what the situation was on the ground at the time. The 2004 and 2005 aerial photographs⁹ show that caravan pitches and hard standing areas created for caravans all generally located towards the centre of the holiday centre which broadly corresponds with the area delineated in red on the block plan.
31. Indeed, during the Inquiry, Councillor Nick Stuart and Giles Alldred on behalf of Brighstone and Shorwell Parish Councils, who both have knowledge of the Holiday centre at the pertinent time also confirmed that caravans were located towards the centre of the site only, and that this was primarily a Holiday Centre with chalets as the main use. Whilst some caravans and pitches may be seen outside of this area on the aerials, they clearly do not spread over the entirety of the site and are generally positioned within or close to the red line area of the block plan.
32. On balance, the aerial photographs and views from the Councillor and Parish Councils lend further support that the applicant sought planning permission for the red line area shown on the block plan only, as this was where he was largely siting caravans in connection with the primary use of the site, which is stated on the application form as a Holiday camp.

The consultation response from the IOW AONB Partnership and the Officer's Report

33. There are two main items of contemporary extrinsic material which are contemporary to the decision and can be taken into account: the consultation response from the Isle of Wight AONB Partnership and the Officer's Report.
34. The IOW AONB Partnership states that the Holiday Centre is a well-established tourist facility and refers to the site's location within the Isle of Wight AONB and the Tennyson Heritage Coast. The consultation response also highlights that the landscape character of the area is described as 'Southern Coastal Farmland in the Landscape Character Assessment, Countryside Commission, 1994. In particular, they state "the caravan pitches being well within the boundary of the site and in most parts being hidden behind existing holiday chalets" (my emphasis).
35. That can only be consistent with the application being for the narrower area on the block plan red line and is inconsistent with an application for caravans

⁸ R (Ashford) Borough Council v Shepway 1999 CD 5.6.

⁹ Appendix 10 of the Appellant's Appeal Statement of Case.

being placed anywhere within the holiday centre. Therefore, this response makes clear they The AONB Partnership considered the application they were considering was for the red line on the block plan. The appellant accepts this because they state that the AONB officer made an error in reading the application and plans¹⁰.

36. The Officer's Report states that:

"the area that the caravans would be located is well situated within the holiday complex and is screened by existing buildings on site. Therefore, the continued use of the area for touring caravans would not have a detrimental impact on the rural character of the area" (My emphasis).

37. As such, it is clear that both the Planning Officer and the IOW AONB Partnership had exactly the same understanding of the application site and understood that it related to a limited area towards the middle of the site, rather than the entire site. It is highly unlikely that two separate Planning Officers would mis-interpret the plans and application.

38. The Officer's Report, further states that "the plans indicate the usage of the site for twelve caravans." Therefore, the Officer understood that there were the location plans and the block plan before them, but their understanding of those plans was that what was being shown was the use of the site for twelve caravans as shown outlined in red on the block plan.

39. The Officer goes on to state:

"If the caravans were to remain in the area outlined in red as the site, I do not see it necessary to condition the number to be situated within this area as it will be dictated by the size of the caravans, the area available and the site licence."

40. Here, the Officer is making clear that the limited area outlined in red on the block plan limits the space available for caravans. This comment would not make sense if the application site related to the entire Holiday Centre, since many more than 25 caravans would be able to be located. Therefore, these comments from both the Planning Officer and the AONB Partnership provide further clarity that the application site related to the red line on the block plan.

Conditions attached to the 2005 permission

41. Condition 1 states that "the area outlined in red shall be used for the siting of holiday caravans only". The reasons for condition 1 highlights that this is necessary *"In the interest of the visual character and appearance of the site and to ensure the continued use of the site for holiday purposes"*. Within the outlined area the condition requires caravans to be for holiday use only, which meets the holiday purpose identified in the reasons for the condition.

42. With regard to the 'visual character and appearance of the site' the appellant considers that this would be achieved by preventing permanent residential units and domestic paraphernalia (such as clothing lines) across the entire site. However, the Officer's Report does not support this theory. The appellant also states that the edges of the holiday centre are covered almost entirely by chalets, and that these single storey buildings shield the interior of the site

¹⁰ Paragraph 2.21 of the appellant's final comments on the LPA and 3rd party appeal statement.

from views, which would be an effective screen for caravans. It is further stated that the most prominent position for caravans is the centre of the site as there were open view towards the coastal path (prior to its collapse), the sea, and from Military Road through the site exit and the west. As such, the appellant argues that caravans nearer the chalets would be less visible.

43. However, during my site inspection, due to the gently undulating topography of the coast, I observed that, much of the holiday centre, including the areas outside of the red line area on the block plan, is highly visible from various points along Military Road, and from also the agricultural field adjoining the site which is on higher ground. Furthermore, I also observed a number of caravans positioned in the car park area, close to the entrance and exit of the Holiday Centre, and visible from Military Road. Therefore, if this condition sought to limit holiday caravans within the entire site as shown on the location plan, it is unclear how this would be in the interest of 'visual character and appearance.'
44. On the other hand, the red line area on the block plan, is situated well within the site, screened by existing buildings, and furthest away from the boundaries of the site, where it adjoins the public highway and footpaths. In this respect the provision of touring caravans towards the centre of the site only would clearly achieve the purpose of this condition in terms of protecting the visual character and appearance of the area (as mentioned by the AONB Partnership and the Planning Officer).
45. Condition 2 refers to the use of the 'site' for visiting touring caravans and prevents it being used for the storage or siting of mobile homes or touring caravans on a permanent basis. The appellant considers that reference to the word 'site' refers to the whole of the holiday centre, as shown in red in the location plan.
46. However, there is no clear reason given in the officer's report or the reasons for the conditions why officers would have wanted to allow a different type of caravan use on the area in the red line on the block plan, to that permitted on the wider holiday centre site. In the absence of any compelling reasons, I conclude that both conditions apply to the same area, an agreed matter (although the appellant believes this refers to the red line area in the site location plan). However, for the reasons set out above, condition 1 more likely applies to the red line boundary on the block plan, and there is support for this from both the Officer's Report and the reason for the condition. Therefore, it follows that condition 2 also applies to the red line boundary on the block plan.
47. Therefore, on the balance of probabilities, the conditions attached to the 2005 permission add further weight to my other conclusions, that this permission relates to the red line boundary on the block plan and not to the area shown on the location plans.

Council's Planning Portal Map

48. The appellant also refers to the Council's Planning Portal Map in support of their case. It is not known who created this map but the appellant states it is most likely carried out by the Council's administrative team with some knowledge planning. However, the Council clarified during the Inquiry that this is not intended to be an exact delineation of the area to which the permission applies but a general representation of the area of the site. Indeed, the Council explained that the same plan appears on every application related with the

Holiday Centre whether it is intended to cover the whole or part of the site. As such, this does not provide clarity on which is the correct red line plan.

Site licence

49. The Appellant relies on a caravan site licence issued by the Council in 2009 (in reliance of the 2005 permission) and transferred in 2018, and states that the site licence area is the entire holiday centre. However, there is little evidence before me to show which documents and arguments were before the licencing department at that time, and indeed, no corresponding site plan has been submitted for the 2009 site licence, identifying the precise land to which it relates. More importantly, these licences post-date the 2005 permission by several years. As such, they do not provide relevant evidence about the correct interpretation of the permission granted in 2005.
50. Therefore, on the balance of probabilities, using the natural and ordinary meaning of the language, in broad, common-sense terms, the application material and the contemporary extrinsic material, all point in the direction that the 2005 permission limited the touring caravan pitches to land within part of Brighstone Holiday Centre, as shown edged in red on the 2005 block plan.

Conclusion

51. For the above reasons, I therefore conclude that the Council's decision to grant the LDC for the area shown edged in red on the block plan only was well founded, and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

R Satheesan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Harwood KC instructed by Laister Planning

Nicholas Laister, Managing Director of Laister Planning

Nayan Gandhi, Director of Laister Planning

FOR THE LOCAL PLANNING AUTHORITY:

Clare Parry of Counsel instructed by the Isle of Wight Council

Ann Braid, Senior Planning Officer for the Isle of Wight Council

INTERESTED PERSONS:

Giles Alldred on behalf of Brighstone and Shorwell Parish Council

Councillor Nick Stuart, Brighstone, Cabourne and Shalfleet Ward

DOCUMENTS SUBMITTED DURING THE INQUIRY

1. Appellant's opening submissions.
2. Council's closing submissions.
3. Council's closing submissions.
4. Appellant's closing submissions.