



Appeal Decision

Site visit made on 26 March 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 21st May 2026

Appeal Ref: APP/F1040/X/25/3360308

Land at Beechwood Park, Main Road, Elvaston, Derby DE72 3EQ

- The appeal is made by Colin Beech under section 195 of the Town and Country Planning Act 1990 against a refusal by South Derbyshire District Council to grant a lawful development certificate.
 - The application Ref: DMPN/2024/1414, dated 29 October 2024, was refused by notice dated 23 December 2024.
 - The application was made under section 191(1)(c).
 - The development for which the certificate was sought is described on the application form as "Use of land as a caravan site for continual occupation, in breach of condition 1 of permission Ref.9/0989/0751/R and condition 4 of permission Ref.9/2006/0084".
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Decision

1. The appeal is dismissed.

Reasons for the decision

Introduction

2. Beechwood Park has an area of approximately 11 hectares. It contains fishing lakes, chalets, caravan and camping pitches, parking facilities and associated buildings. Access is from Main Road, on the western corner of the land. Within the land is a scheduled ancient monument which is not affected by this appeal. The whole of the land is owned and operated by the appellant and his wife, subject to whatever arrangements are made from time to time with users of the chalets and pitches and with anglers.
 3. Permission 9/0989/0751/R was granted on 1 December 1989. It approves "The variation of condition 4 of Planning Permission 9/185/986 to permit the use throughout the year of the caravan/camping site at the Ex War Department Camp Borrowash Lane Elvaston as shown on the deposited plans and described in the application form dated 15/9/89". Permission 9/185/986 authorised the use as a camping/caravan site of land which is part of the land described in application DMPN/2024/1414. Condition 4 stated "No caravans or tents shall remain on the site between 31st October in any one year and 1st March in the succeeding year."
 4. Condition 1 of 9/0989/0751/R is as follows: -
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"No caravan shall be kept on the site for a continuous period exceeding four weeks at any time. A register of staying visitors to the site, giving names addresses and dates of stay shall be kept by the proprietor and made available for inspection at the request of any officer of the Local Planning Authority."

5. Permission 9/2006/0084/M was granted on 16 May 2006. It approves "The retention of an angling lake and associated bunds, the change of use of agricultural land to caravan and camping site, the erection of a toilet block, car park and access road with associated landscaping at Beechwood Park Borrowwash Lane Elvaston Derby as shown on the deposited plans and described in the application form received 20/2/2006". The plan approved by permission 9/2006/0084/M shows an extension of the caravan and camping site in a north-easterly direction which includes part of the land described in DMPN/2024/1414.
6. Condition 4 of 9/2006/0084/M is as follows: -

"This permission shall not relate to the formation of an extended caravan site, as confirmed by the agent's letter dated 8 May 2006."

This letter amended the planning application by excluding a further extension of the camping and caravan site that had been proposed.
7. The Council refused application DMPN/2024/1414 for the following reason: -

"The applicant has not demonstrated, on the balance of probability, that the land identified in the red line on the applicant's Site Location Plan ref. 8784-B-01-G has been used in breach of condition 1 of planning ref. 9/0989/0751/R; and in breach of condition 4 of planning ref. 9/2006/0084 for a continuous period in excess of 10 years."

The red line on this plan is drawn around northern parts of the land which consist of fishing lakes, ponds, grassland and woodland.
8. The Council had earlier granted a certificate of lawfulness relating to the existing use of southern parts of the land "as a caravan site for continual occupation" (DMPN/2024/0715) on the basis that it had been demonstrated, on the balance of probability, that these parts had been used in breach of conditions 1 and 4 for a continuous period in excess of 10 years.
9. Permission 9/0185/0987 was issued at the same time as 9/0185/0986. The plan approved by 9/0185/0987 shows a fishing lake in the northern part of the land. Other planning permissions that have been granted include 9/2000/0020 for a tearoom and fishing tackle store together with the formation of three fishing lakes, 9/2000/0880 for chalets and 9/2008/1051 for a reception building and a car park.
10. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The planning merits of the matter are not relevant and there are no planning applications before me.

Summary of the parties' positions

11. The appellant maintains that the certificate issued in DMPN/2024/0715 confirms that conditions 1 and 4 have been breached for a continuous period in excess of 10 years and that the conditions therefore no longer take effect as regards the whole of the land to which DMPN/2024/0715 and DMPN/2024/1414 relate. He claims that there is one planning unit that covers all the land at Beechwood Park and that within this unit there is one primary use, a camping and caravan site with ancillary functions including fishing lakes. He also raises questions concerning the validity and enforceability of the conditions.
12. In response, the Council maintain that it is open to them to conclude on the balance of probability that the activity in breach of the conditions took place only on the land identified in DMPN/2024/0715. As to the planning unit, the Council state that the northern part of the land, which contains the fishing lakes, is physically distinct from the southern part that is used as a caravan site. They add that there is no evidence of caravans or tents ever having been present on the land identified in DMPN/2024/1414.

Assessment

13. I have considered the parties' representations and I have inspected the site. I have also considered the additional information provided by the Council at my request, on which the appellant has added a further comment.
14. No evidence has been put forward that any caravans or tents have ever been present on the land identified in DMPN/2024/1414. The appellant has instead relied on arguments relating to the planning unit and the validity and enforceability of the conditions.
15. The planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use. This appeal, however, relates to breaches of planning conditions, not to changes of use.
16. The outcome of the appeal therefore turns on the validity and enforceability of the conditions and on the soundness of the Council's assertion that it was open to them to conclude on the balance of probability that the breach of the conditions took place only on the southern part of the land which is identified in DMPN/2024/0715.
17. There is no force in the argument that planning conditions cannot be restricted to part of a planning unit. It is common practice to do so.
18. Condition 1 of 9/0989/0751/R applies to "the caravan/camping site" as it existed at that time on the southern part of the land. It is a type of condition that is often imposed on caravan and camping sites and it satisfies all the tests for planning conditions.
19. Permission 9/2006/0084/M authorised the change of use of part of the southern part of the land from "agricultural land to caravan and camping site". This part of the southern part of the land was an addition to the caravan and camping site approved by 9/0989/0751/R and condition 4 of the permission relates to this part of the southern part. The purpose of condition 4 is to

confirm the modification made by the agent's letter which withdrew a proposal in the application for a further extension to the site. The reason given on the permission for the condition was "For the avoidance of doubt, the original submission being considered unacceptable". Conditions such as this, defining the scope of a permission where it is called for, are not unusual. Condition 4 satisfies all the tests for planning conditions.

20. I have considered the representations made by the appellant about the conditions. Reference has been made to the Norfolk Homes, Miller-Mead and I'm Your Man judgements and the Castle View and White Horse Park Homes appeals. There is nothing in the judgements that could call into question the validity or enforceability of conditions 1 and 4. Castle View is distinguishable because in the present appeal there are no doubts about the validity and enforceability of the conditions and there is no evidence of other land being used as part of the caravan and camping site. White Horse Park Homes did not involve planning conditions.
21. I have concluded that both conditions are valid and enforceable and apply only to the southern part of the land that is identified in DMPN/2024/0715. I am satisfied that the Council's refusal of the application DMPN/2024/1414 is well-founded. The appeal has therefore been dismissed.

D.A.Hainsworth

INSPECTOR