Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0587
Sumners Pond Fishery And Campsite , Chapel Road, Barns Green, West Sussex, RH13 0PR

DESCRIPTION:
The stationing of up to 29 static or touring caravans for an unlimited period, occupied for holiday purposes only (Lawful Development Certificate - Proposed).

RELEVANT PLANNING HISTORY:

DC/20/1809	The stationing of 34 holiday static caravans for 12 month round holiday use with no restrictions on length of stay, in accordance with Planning Permission ref: DC/05/0060. (Certificate of Lawful Development - Proposed)	Application Refused on 02.09.2021
APP/Z3825/X/22/3299073		Appeal dismissed on 22.02.2024
DC/17/0052	Lawful Development Certificate Proposed for the siting of 34 static holiday caravans in place of 34 touring caravans	Withdrawn Application on 06.02.2017
DC/05/0060	Stationing of mobile home for warden for all year round occupation, variation of Condition 02 of planning permission I/5/02 to allow a maximum of 5 caravans to be stationed on the land for a maximum of 6 months between the months of April and September and variation of Condition 03 of planning permission I/5/02 to allow the total number of caravans to be 34.	Application Permitted on 10.06.2005
I/5/02	Change of use from agricultural land to camping & caravaning site	Application Permitted on 28.08.2002

PUBLIC REPRESENTATIONS:

Itchingfield Parish Council:-

"Itchingfield Parish Council would like to make the following comments on this planning application:
Sumners Ponds Fishery and Camping Site, has been and still is a highly regarded enterprise which has and hopefully will continue to bring many benefits to Itchingfield Parish in general and to the Barns Green Sports and Social Club, The Queens Head pub and the Village shop in particular. The site has also provided many part time and seasonal jobs to local people, particularly the many young persons taken on during the summer season, enabling them to have a first job experience to quote when applying for future posts.

The Bluebell Field has been a site for up to 34 touring caravans since 2005, ref DC/05/0060. The current application for Lawful Use was originally refused on appeal APP/Z3825/X/22/3299073. However, the Government Inspector suggested that a new application for a Certificate of Lawful Use could be made. The proposed application seeks to have no more than 34 "caravans" for holiday use only on the site at any one time, with 5 of the "caravans" as seasonal and on the site continuously for 6 months between April and September. Therefore,

only up to 29 more “caravans” will be allowed on the site during this time with none of them occupied for more than 28 days at a time. The concern is that this will result in all the “caravans” becoming in effect fixed dwellings as there is no difference in law between a touring caravan and one fixed on a site. However, the design of a touring caravan is fundamentally different to that of a fixed caravan which except for its token wheels is s fixed cabin. The use of fixed “Caravans” would completely change the ambiance of Bluebell Field and would in essence be contrary to HDC’s stated commitment to encourage tourism by allowing the use of touring caravans in policy TM9 in the HDC Local Plan of 1997, which formed the basis of the original Camping and Fishing site.

The administration of the site would need to be very robust and in default the response of HDC’s Compliance Department would need to be similarly robust. The Itchingfield Parish Council is very concerned that creeping urbanisation does not take place as we have seen locally (Emms Lane), over several years where holiday touring caravan sites become fixed “caravan” sites and eventually become permanent “Park Homes”/dwellings/market housing units all of which are classified in law as caravans. Itchingfield Parish Council therefore seeks that strict conditions are imposed and enforced if needed to ensure that this does not happen, while at the same time ensuring that this valuable local enterprise can flourish.

So, in summary: Itchingfield Parish Council does not object to this application subject to sufficient safeguards being put in place to ensure that there is no creeping urbanisation of this site.”

SITE AND APPLICATION DESCRIPTION:

This application is made pursuant to S.192 of the Town and Country Planning Act 1990, and seeks the grant of a ‘certificate of lawfulness’ in respect of the stationing of up to 29x static or touring caravans for an unlimited period of time, to be occupied for holiday related purposes only.

The application concerns a single field at the northern extent of the wider Sumners Pond Fisher and Campsite site, initially benefiting from the grant of planning permission for a change of use from agricultural use to use as a ‘camping and caravanning site’ in 2002 pursuant to ref: I/5/02.

This application follows a previous S.192 application (ref: DC/20/1809) and subsequent appeal (ref: APP/Z3825/X/22/3299073) against the Authority’s refusal to grant a certificate of lawfulness. This application is of broadly similar scope to this previous application/appeal, though, seeks to respond to a number of the Inspector’s findings and seeks a Certificate in respect of the stationing of a lesser number of caravans.

PLANNING ASSESSMENT

S.192(2) of the Town and Country Planning Act 1990 establishes that, if, on an application under this section, the Local Planning Authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

The application site initially benefitted from a grant of planning permission circa 2002 (I/5/02) for the ‘*change of use from agricultural land to camping & caravanning site**’.*** This 2002 planning permission was granted subject to two conditions (2 and 3), which respectively provided that the total number of caravans stationed on the site shall at no time exceed 32, that no caravan shall be stationed on the land for more than 28 consecutive nights and that caravans shall be used solely as holiday accommodation.

The 2002 planning permission was subsequently succeeded by a later grant of consent circa 2005 pursuant to ref: DC/05/0060, which, in addition to enabling the stationing of a single caravan for occupation by a warden, sought to enable the stationing of 34 total caravans, and the stationing of 5 caravans for a maximum period of 5 months (being in excess of the limit of 28 consecutive nights provided by ref: I/5/02).
Key to the consideration of this application is condition 2 attached to ref: DC/05/0060, which provides [emphasis added]:-

"No more than five caravans shall be stationed on the land, the subject of this application, for more than six months between the months of April to September, and in addition, no more than 29 caravans shall be stationed on the land for more than 28 (consecutive) night(s)".

The stated reason for Condition 2 attached to ref: DC/05/0060 was:-

"To preserve the availability of the site as a touring facility, in accordance with Policy TM9 of the Horsham District Local Plan 1997".

Permission granted by ref: DC/05/0060 was granted subject to other conditions, including condition 4 which provides an absolute limit on the number of caravans which can be stationed within the site at 34, and condition 3 which restricts the occupation of caravans (except for the wardens unit) for holiday purposes only.

A previous submission by the applicant (DC/20/1809) sought the grant of a certificate pursuant to S.192 for:-

"The stationing of 34 holiday static caravans for 12 month round holiday use with no restrictions on length of stay, in accordance with Planning Permission ref: DC/05/0060."

The Local Planning Authority refused to grant a certificate pursuant to ref: DC/20/1809 on the following ground:-

"It is considered that the proposed stationing of up to 34 static caravans for an indefinite period for year-round holiday use would contravene the requirements of condition 2 attached to planning permission ref: DC/05/0060, where this condition is read by a reasonable person applying a common sense interpretation. It is, therefore, not considered that the siting of 34 static caravans on an indefinite period would prove lawful in a manner which would enable a Certificate of Lawfulness to be granted pursuant to S.192(2) of the Town and Country Planning Act 1990."

Following the Authority's determination, the applicant appealed against the Authority's refusal, with the Inspectors subsequent determination pursuant to ref: APP/Z3825/X/22/3299073 of significance to the consideration of this application given the similarity of the certificate sought, the Inspectors remarks regarding the status of ref: DC/05/0060 and relevant effects of conditions attached to that permission.

Limits Imposed by Condition 2 attached to ref: DC/05/0060.

The key matter in dispute pursuant to ref: APP/Z3825/X/22/3299073 was in respect of the limits (if any) provided by Condition 2 attached to ref: DC/05/0060 in respect of the period of time for which individual caravans could be stationed on land, and with regard to the clearly deficient wording of the condition.

The Council's case in conjunction with the previous appeal was that the requirements of the condition could be understood by a reasonable person reading the condition in its wider context and with regard to ambiguity created by its poor wording. That argument, however, was rejected by the Inspector, who found condition 2 unambiguous (paragraphs 14 and 15), and that reference to wider context to the 2005 permission would *"ignore the ability of any reasonable reader, applying common-sense, to understand what condition 2 of the 2005 PP plainly says."* (Paragraph 12).

The correct reading of Condition 2, as considered by the Inspector, is helpfully summarised at Paragraph 13 of the appeal determination, where the Inspector explains [emphasis added]:-

"Condition 2 of the 2005 PP comprises 2 parts: (i) up to 5 caravans can be stationed on the land for more than 6 months between April to September; and in addition (ii) up to 29 caravans can be stationed on the land for more than 28 consecutive nights. The condition therefore restricts the total number of caravans which can be stationed on the land to 34, and the length of time 5 of those caravans can be stationed on the land. This renders condition 4 of the 2005 PP redundant, but it does not mean condition 2 is imprecise, unclear or ambiguous."

The Inspectors findings at Paragraph 13 (and throughout his determination) are of significant weight in the consideration of this application. It is, therefore, considered appropriate to consider that Condition 2 attached to ref: DC/05/0060 provides for two separate limits (1) that up to 29 caravans can be stationed on the land for a period in excess of 28 consecutive nights and (2) that an additional 5 caravans can be stationed for more than 6 months between April to September.

It was solely in relation to the second limit provided by Condition 2 where the Inspector found the appellants previous submission unlawful (Paragraphs 19 and 21) leading to the dismissal of the appeal in the context of the Inspectors inability to adjust the appeal description and without prejudice to interested parties (Paragraph 20). There was, however, a strong inference from the Inspector that an alternative S.192 application could be a sensible response to the outcome of the appeal at Paragraph 21, where the Inspector comments "*Given my limited powers to change the description of the proposed use, the appeal must fail. This would not prevent the appellant from submitting a new application for an LDC for a clearer and more precise description of the use proposed."*

The current S.192 application, therefore, is a clear response to the outcome of the appeal in seeking the grant of a certificate for the stationing of up to 29 caravans for an unlimited period to be occupied for holiday purposes only. It is germane to highlight that an unlimited period is in excess of a period of 28 consecutive nights, and that it is unnecessary to consider performance against the second limit provided by Condition 2 which pertains to the stationing of up to 5 additional caravans beyond 29.

For the reasons given within the Inspectors report, therefore, it is considered that the stationing of up to 29 caravans to be occupied for holiday purposes within the defined site-area is lawful in accordance with the grant of planning permission provided by ref: DC/05/0060.

Type of Caravan and Period of Occupancy

The concerns of Itchingfield Parish Council raised within their letter of representation are acknowledged, and with particular regard to the stationing of static caravans and associated potential for a change in the character of Bluebell Field and creation of permanent dwellings.

The certificate of lawfulness sought addresses the stationing of 'static or touring' caravans. Caravans are defined at S.29 of the Caravan Sites and Control of Development Act 1960 and at S.13(1) of the Caravan Sites Act 1968. The grant of a certificate of lawfulness for the stationing of a static or touring caravan, therefore, would not enable the stationing and/or erection of a structure or chattel outside of these relevant statutory definitions. While the Parish Council's concern that the stationing of up to 29 'static' caravans could lead to an adverse urbanising effect is understandable, the stationing of caravans to this effect could lawfully occur in a manner consistent with the relevant statutory definitions. It is not open to the Authority to consider the merits (and harms) of the development described by the applicant in its consideration of a S.192 application, as S.192(2) of the Act establishes, therefore, this concern does not provide a lawful justification for a certificate to be withheld.

In respect of the potential for a 'permanent' occupancy of the proposed caravans it is not considered that such a scenario could arise from the grant of a certificate of lawfulness in this instance. The applicants description clearly references the intended occupancy of caravans for holiday purposes only, while the site would remain subject to previous conditions (including condition 3 attached to ref: DC/05/0060) which requires that caravans are occupied for holiday purposes only.

The occupancy of a caravan for holiday purposes would not include a permanent occupation. Were caravans to be occupied on a permanent basis, therefore, the Council would retain the ability to enforce the requirements of Condition 3 attached to ref: DC/05/0060 and/or any associated Caravan Licence. If it were the intention of the applicant to seek a prospective permanent occupation of caravans, it would prove necessary for the applicant to first obtain planning permission for the use of land in this manner. This concern, therefore, does not provide a reasonable reason for a certificate to be withheld in this instance.

Conclusion:

Overall, in light of the findings of the Inspector pursuant to ref: APP/Z3825/X/22/3299073 it is considered that the proposed stationing of up to 29 static or touring caravans for an unlimited period, to be occupied for holiday purposes only, would prove lawful and in accordance with condition 2 attached to ref: DC/05/0060. It is, therefore, recommended that a certificate of lawfulness be granted to this effect.

Recommendation: Application Permitted

Reason:

1. It is considered that the proposed stationing of up to 29 static or touring caravans for an unlimited period, to be occupied for holiday purposes only, would prove lawful as in accordance with the grant of planning permission pursuant to ref: DC/05/0020 and the limits imposed upon the use of land by condition 2 attached to that consent.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/0587
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	17.04.2024
Supporting Statement	Planning	NONE	17.04.2024

DELEGATED

Case Officer sign/initial Giles Holbrook Date: 11.06.2024

Authorising Officer sign/initial Adrian Smith Date: 13/06/2024

