Application for a Certificate of Lawful Proposed Use or Development ("CLOPUD")
under S192 Town and Country Planning Act 1990 (as amended)
Use of Land for "*The stationing of up to 29 static or touring caravans for an unlimited period, occupied for holiday purposes only*"
Land at Bluebell Park at Sumners Ponds Fishery and Campsite, Barns Green, Horsham RH13 0PR

Introduction

This is an application under Section 192 of the Town and Country Planning Act 1990 (as amended) (the "**Act**") for the issue of a certificate of lawful proposed use or development for use of the Application Land for "*The stationing of up to 29 static or touring caravans for an unlimited period, occupied for holiday purposes only*".

The Application Land known as "Bluebell Park" is part of a large existing camping and caravan park, "Sumners Ponds", and is subject to various planning decisions. Those relevant to this Application are:-

The original planning permission dated 28/08/2002

- **I/02/2002** ("Change of use from agricultural land to camping and caravanning site")

The extant planning permission dated 10 June 2005

- **DC/05/0060** ("*Stationing of mobile home for warden for all year round occupation, variation of Condition 02 of …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".*)

The Planning Appeal Decision dated 22 February 2024:

- **APP/Z3825/X/22/3299073** in which the Inspector refused the Appeal and suggested an alternative description for a new CLOPUD application: "".
- The Appeal clarified that DC/05/0060 was the extant planning permission; and confirmed that "*Condition 3 restricts the occupation of caravans, other than the warden's accommodation, for holiday purposes and that condition 4 limits the total number of holiday caravans to 34*".

This revised CLOPUD application is made pursuant to the Planning Inspector's suggestion that a new CLOPUD application could be made pursuant to his findings regarding the lawful use of Bluebell Park as the legislation did not empower him to amend the CLOPUD description and issue a revised CLOPUD pursuant to the Appeal.

The Applicant is mindful of the need to ensure that the status of the "holiday only" use Condition 3 of the extant planning permission DC/05/0060 remains unambiguous and enforceable for planning, site licensing and commercial purposes. The Applicant has consulted with the Local Planning Authority with regard to a clear description of the proposed use for this application.

The Application Land currently has permission and site licensing for 34 pitches. These have been used for touring caravans, 28 of which have hardstandings.

Relevant Planning History

Bluebell Park is part of the large and well established Sumners Ponds caravan and camping site and fishery. There are scores of planning documents and consents relating to Sumners Ponds as a whole. There are two planning permissions of most relevance to this application: 1/5/02 (granted 28 August

2002) which granted the original permission and which was superseded by DC/05/0600 (granted 10 June 2005) which granted a new permission with different conditions.

I/5/02

I/5/02 granted the original permission for "Change of use from agricultural land to camping and caravanning site".

Numbers were limited by condition to 32 by Condition 3.

Condition 2 of I/5/02 stated: "*no caravan shall be stationed on the land… for more than 28 (consecutive) night(s) and shall only be used for holiday accommodation*". The reason for this was to "*preserve the availability of the site as a touring facility*". I/5/02 was superseded by a later permission, DC/05/0600, for the same site, which issued a new planning permission subject to different conditions.

DC/05/0600

DC/05/0600 was granted on 10 June 2005 for "*Stationing of a mobile home for warden for all year round occupation, variation of Condition 02 of …I/05/02 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."*

The description of use permitted under I/5/02 relating to the caravans is "*camping and caravanning site*". Permission DC/05/0600 granted, inter alia, a fresh permission for this use subject to different conditions.

Condition 3 of DC/05/0060 restricts use of the caravans to holiday use:-

> "*With the exception of the warden's accommodation hereby permitted, the caravans shall be occupied for holiday purposes only and shall not be used as units of permanent living accommodation.*"

At paragraph 17 of his Decision, the Inspector states:-

> *"Condition 3 of the 2005 PP restricts the occupation of all caravans to holiday purposes only, which does not include them being used as units of permanent living accommodation. It does not set a maximum period any caravans could be occupied, but the Council would remain capable of taking enforcement action if any caravans were occupied other than for holiday purposes or as permanent living accommodation. Condition 3 is therefore enforceable and the length of stay of occupants in caravans on the land is restricted."*

For the avoidance of doubt, the Applicant intends that this CLOPUD should interpret the scope of the lawful use under the extant 2005 permission and that the "holiday only" use restriction set out in Condition 3 would remain enforceable.

Similarly, the warden unit and five other "seasonal" caravans are not included in this CLOPUD application as the planning permission for these would remain in force under the extant 2005 permission.

Type of Caravan – Touring or Static

In neither permission DC/05/0600, nor the predecessor permission I/5/02, is there any condition which limits the construction type or size of caravans to "*touring caravans only*".

Planning law does not distinguish between touring and static caravans. The House of Lords case Wyre Forest DC v Secretary of State for the Environment and Allen's Caravans (Estates) [1990] 2 A.C. 357 (HL) clarified once and for all that "*all planning permissions issued since August 29, 1960, for caravan sites or caravans import the statutory definitions unless the contrary appears*". There is but a single statutory definition of "caravan" (under Section 29(1) of the Caravan Sites and Control of Development Act 1960, as supplemented by Section 13 of the Caravan Sites Act 1968 as amended by the SI 2006/2374); and but a single statutory definition of "caravan site" at Section 1(4) of the 1960 Act.

The principle in I'm Your Man Ltd v Secretary of State for the Environment, Transport and the Regions (1999) 77 P&CR 251 provides that:

> "*if a limitation is to be imposed on a permission granted pursuant to an application, it has to be done by condition*".

(This principle has been confirmed by more recent decisions in R (on the application of Altunkaynak) v Northampton Magistrates' Court [2012] EWHC 174 (Admin) and Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government [2014] EWHC 1138). Applying the "I'm Your Man" principle, there is no limitation restricting the type of caravans to "touring" caravans only, as this has not been required by condition. The use remains the same "caravan site" sui generis use, whether there are touring caravans or static caravans. There is no material change of use.

Therefore, any "caravan" that satisfies the statutory definition of caravan, whether a touring caravan or static caravan, may be sited on the Application Land pursuant to DC/05/0600, in compliance with all the relevant conditions therein.

Length of Stay

This application does not seek to interpret the five "seasonal caravans" which are subject to the restrictions set out in the first part of Condition 2 of the extant 2005 permission, but with the twenty-nine other caravans mentioned in the second part of Condition 2.

The second part of Condition 2 states:-

> *"and in addition, no more than 29 caravans shall be stationed on the land for more than 28 consecutive night(s)"*

This condition does not impose a maximum on the nights caravans may be stationed on the site. Rather, it the maximum imposed is on the number of caravans that may be stationed. That is, 29 caravans. Effectively a maximum of 29 caravans (in addition to the 5 considered in the first part of the condition) may be stationed on the land "for more than 28 consecutive night(s)". That is, for an unlimited number of nights.

Therefore, Condition 2 of DC/05/0060 serves to limit the number of caravans allowed to be stationed to 34 (5 plus 29), but not the number of nights any of those caravans may be stationed on the Application Land.

There is no general "seasonal condition" restricting the use of the land to a certain season or requiring the Application Land to be cleared or kept free of caravans at certain times of year in the original permission I/5/02. While there is a reference to "April to September" in condition 2 of DC/05/0060, this does not serve to restrict the season as it relates to 5 of the 34 caravans being able to use the Application Land in excess of six months during those months. No season is mentioned at all in relation to the other 29 caravans. Accordingly, the actual use of the Application Site has been all year round, as can be seen from historic aerial photographs (published on Google Earth) taken at different times of the year.

Development Permitted Within the Scope of DC/05/0060

Where planning permission has been granted for a particular use, a change of use may be permitted under within the scope of that planning permission provided that change of use is not material and that it complies with the conditions of the planning permission.

While there is a clear condition which restricts use of the caravans to "holiday use" only, the description of "camping and caravanning" in the original permission (I/5/02) encompasses all caravanning within the statutory definition and, even if it did describe "touring caravans", a change from touring to static holiday caravans would not be a material change of use requiring planning permission. While the initial planning permission plans showed a touring layout, there is no condition stating that this layout must be maintained and there are permitted development rights which permit operational development required by site licence conditions (including any site licensing plan with a revised layout) under the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 5 Class B "*Development Required by the conditions of a site licence for the tie being in force under the 1960 Act*".

The Inspector confirmed this at paragraph 17 of his Decision:-

> *"With regard to the stated reason for condition 2, it remains unclear what a 'touring facility' is. No parties have been able to provide a copy of Policy TM9 of the Horsham District Local Plan 1997, which no longer forms part of the development plan. The officer report to the 2005 PP explains that Policy TM9 encouraged the provision of new tourist facilities, which aligns with the appellant's suggestion that a touring facility is simply a facility for tourists. This view is supported by the fact that condition 3 of the 2005 PP, restricting the occupation of caravans, has the same stated reason. There is insufficient detail in everything I have read and heard to convince me that an alternative interpretation of the reason for conditions 2 and 3 would be to preserve facilities for touring caravans. Indeed, the permitted use relates to all types of caravans and camping accommodation, even though approved plans indicate a touring caravan layout and seasonal pitches"*

Conclusion

The Applicant is keen to improve and enhance the existing park and to facilitate the upgrading of this part of the Sumners Ponds fishery, caravan and campsite by changing accommodation from touring to static holiday caravans. Following a CLOPUD Appeal, the Applicant has revised the description of the CLOPUD sought to that suggested by the Inspector in his Decision. The Applicant has sought the views of the LPA's Planning Officer to ensure that the description is clear and unambiguous and that it is clear that the "holiday only" use condition in the extant 2005 permission would remain in force.

Therefore, the Applicant would respectfully request that a CLOPUD be issued with the following description:

"*The stationing of up to 29 static or touring caravans for an unlimited period, occupied for holiday purposes only*"

For the avoidance of doubt, an informative could include reference to the conditions restricting the use and number of caravans to 34 holiday caravans in DC/05/0060 to clarify that this is a Section 192 certificate of lawfulness clarifying and confirming the use permitted by an extant planning permission and that the conditions of that permission continue in force, in line with current planning policy, notwithstanding the issue of the certificate.

The Applicant and his agent hope that this submission clarifies the reason for the form of Application and the rationale for issuing the Certificate in the terms applied for. If any aspect of this is unclear, the Applicant and his agent will be very happy to discuss all aspects in detail with the LPA and their legal advisers in order to find the most appropriate and efficient way forward.

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