

FROM:

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Resources Department
Tel Ext 737737
Dated 28 April 2017
Redated and revised 3 May 2017

TO:

Simon Davis Planning Officer

REF: AW/106/17/CLE CONSULTATION

ADDRESS : Copthorne Caravan Park Rose Green Road Bognor Regis PO21 3ER

NATURE OF USE : OPERATION : Certificate of lawfulness for the existing unconditional use of caravan site.

POINT OF CLARIFICATION

Thanks for discussion on 2 May about the significance of planning refs P/17/81 and AW/361/16 which I refer to below and which occur in the planning history .

I think it was understood and agreed that these references /decisions :-

- [a] affect the northern part site once administered by the former Chichester RDC
- [b] don't refer to the southern site administered by the former Bognor Regis UDC
- [c] are significant because they suggest a way forward if you follow my recommendation in relation to the southern site ie the applicants can use the above as material considerations to apply and seek to vary/discharge the conditions on ref AW/103/92 affecting the south east corner , if they don't succeed in proving "abandonment "

I am happy to clarify this aspect of the advice and please and please come back if more is required

1.ACKNOWLEDGEMENT AND TERMS OF ADVICE

Thanks for your recent consultation memo now returned together with your file on which alone plus the authorities cited this is based.

The somewhat complicated application seeks ;-

a CLE for unconditional occupation as a caravan site of the **site covered by ref AW/103/92** copy attached – "*Certificate of lawfulness for the existing unconditional use of caravan site.*"

I say this because ;-

- [a] this is the only planning permission which imposes a condition on this site as at 7 April 2017 date of the application and covers the area shown on the plan lying to the south east of the site

[b] it appears from the evidence listed on file and below the bigger part of the site, shown hatched on the annotated plan, never had a planning permission and was used as a caravan site since the 50s and licensed as such since 1961

So under s193 you could issue a split CLEUD as per the above as to these different parts of the site and at RECOMMENDATION below

I have included an annotated plan for illustration and explanation too - ref -

Speak if it helps to understand what follows

A simplified chronology of a complicated history is :-

Dates	Events – significance
1950s	Caravan site started at Copthorne – see 1961 caravan site licence and 1961 letter below refers to an existing caravan site at this time
1961	Caravan site licence issued for 1.5 acres site licence dated 29/3/61 Letter from Rapers solicitors dated 13/11/61
1981	Planning permission ref P/17/81 conditions use of caravans for holidays – March – October – very poor copy of consent and I am not certain it may not be for another site ?
1992	7 /10/92 – ref AW/103/92 planning permission issued for 4 touring caravans on small part of same site The application aims to declare this abandoned/unnecessary ineffective Note query – can you issue a planning permission to allow a development already lawful ? Query – do you need to ? Query is it better to seek a planning permission same as AW/361/16 given lack or sparse evidence of breach of conditions ?
2016	Ref AW/361/16 planning permission allows all round holiday let only – applies to north site thus lifting any conditions imposed by ref P/17/81
2017	Ref AW/106/17/CLE seeks “unconditional use” – applies to south site and indeed only to part of south side subject to AW/103/92 planning permission any way with conditional use for March-October only

2.GENERAL RECOMMENDATION

I recommend you refuse for reasons that follow subject to your finding any contradictory evidence- in brief because there is no evidence planning permission ref AW/103/92 was abandoned or was breached for 10 years.

I rely on you to tell me of any evidence indicating otherwise.

I suggest it may be better for the applicants to seek not a CLE but a planning permission along the same lines as ref AW/361/16 already granted for another part of the site to allow siting of holiday caravans throughout the year

Also such an application would cover the whole of the site and be clearer to follow and understand

3.DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND NPPG GUIDANCE ON LAWFUL DEVELOPMENT CERTIFICATES[LDCs]

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application- though not entirely clear - is for breach of condition 3 in ref AW/103/92 relating to prohibition on siting and use of caravans on site in March/October each year – which is the only condition affecting the CLE application site

So the time limit is 10 years under the above .

The time period is 7 April 2007 - 7 April 2017 ie 10 years to date of the application.

The evidence doesn't satisfy this test so far as ref AW/103/92 on present evidence presented -----but only because this evidence ;-

[a] doesn't come direct from the site owners [easily resolved by a statement from them] but indirectly from the agents and

[b] doesn't directly address the breach of condition by having caravans on site in March-October each year –which is the relevant question and instead alleges “abandonment “ of the use of the site which is conditioned

[c] doesn't directly address “abandonment”

I have at this date seen no contradictory evidence of this position. I explain why below.

As to the site not covered by Aw/103/92 I believe on balance of probability evidence does show that this part of the site was used as a caravan site without conditions because no planning permission was issued for it

(2) Sufficiency of Evidence: NPPG Guidance LDCs Part 3 Application and Determination

The evidence judged on a balance of probability and the above criteria is insufficient and is imprecise and ambiguous as to the site covered by ref AW/103/92 to prove .on balance of probability any abandonment

Para 3 NPPG says that “....if an LPA has no evidence itself ,nor any from others, to contradict or otherwise make the applicant's version less than probable , there is no good reason to refuse provided the applicant's evidence alone is sufficiently precise and unambiguous” .

Para 3 in NPPG cited above and the case of Gabbittass v SSE and Newham LBC 1985 JPL 630 referred to there establishes that corroboration is not needed unless to resolve any ambiguity.

As to “abandonment” of uses relating to ref AW/103/92 , “abandonment “ is difficult to evidence, and this evidence just alleges this but gives no detail and requires these matters to be assessed :-

- [a] regard to be had to site condition
- [b] fact and length of time for non use
- [c] intervening uses to be considered
- [d] owner and occupiers intention

Which aren't assessed by the application and

also the application itself admits the site” was used for 4 touring caravans sited 1993-99 and then reverted to storage for the caravan **park for which it was and is still** used.....”para 8 page 2 of statement by agent

on the essentials to prove “abandonment” - See
Northavon DC v SoSE 1990 JPL 579
Castell y Mynach Trustees v SoSW 1985 JPL40

S194 TCPA 1990 states that it is a criminal offence to supply false or misleading information. So the applicants own uncorroborated evidence and unsworn evidence via letters is sufficient for these purposes.

There is no evidence of an extant enforceable Enforcement Notice issued and affecting the Land

Note – in 1992 the caravan site use was established and licensed for 30 years , proved by documentary evidence on file

The evidence analysis with comments is

Number	Item of Evidence	Comment
1	Application	Confirms application is to avoid conditions on land previously administered by BRUDC
2	Letter and statement	Shows north part had no planning permissions since 1960 and use as caravan site but that the site covered by AW/103/92 was covered by condition s--- but this can be discharged or varied by planning application to amend conditions
3	Drawings BUCCP/1 shows whole site and Ref BUCCP TC 2/1 shows part covered by ref AW/103/92	Identifies part covered by planning condition as AW/103/92
4	Letter 13/11/1961	Shows no planning permission issued in 1961
5	Caravan site licence ref 29/3/61	Shows caravan site licence

		issued in 1961 for whole,site including AW/103/92
6	Planning permission ref P/17/81 conditions use of caravans for holidays –March – October – very poor copy of consent	Doesnt address AW/103/92
7	Ref AW/361/16/PL planning permission allows all round holiday let only – applies to north site and so discharges ref P/17/81	Doesnt address AW/103/92

So in summary I advise :-

[a] as to the north site not covered ref AW/103/92 you can grant due to evidence of no condition due to no planning permission on balance of probability
On the plan I show this hatched

[b] as to AW/103/92 on land to the south east of the site, refuse because no evidence shows any “abandonment “on balance of probability

4.FURTHER EVIDENCE

I rely on you to show me any fresh evidence which may alter the tenor of this advice .

5.RECOMMENDATION /TERMS

[a] As to **the site covered by Aw/103/92** I believe on balance of probability evidence fails to show that this part of the site was used as a caravan site without conditions so :-

1. Refuse
2. No evidence of ten years breach on balance of probability supplied on file
3. No evidence on balance of “abandonment “ of use indeed .there is admission site ref AW/103/92 was used as a caravan site /and now as storage

[b] As to **the site not covered by Aw/103/92** I believe on balance of probability evidence does show that this part of the site was used as a caravan site without conditions due to the letters dated 1961 so :-

1. grant
2. identify precise land boundaries on plan for extent of use.
3. describe accommodation ie number of caravans and locations etc

also I advise and suggest you consult Environmental Health Caravans Licensing Officer

