

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.**REF NO:** BE/59/18/CLE**LOCATION:** Orchard Caravan Park
Chichester Road
Bognor Regis**PROPOSAL:** Lawful development certificate for existing use of land for static caravans**DESCRIPTION OF APPLICATION**

Certificate of Lawfulness for Existing Use or Operation and seeks to confirm whether following the passage of time, in this case a period of 10 years of continuous use, the stationing of static caravans on the area known as 'Rings 1-3' of Orchard Caravan Park Bersted is lawful.

Officers note that the caravans are sited around the road that forms 'rings 1-3' and not within the centre of the 'rings.' Therefore any approval of this CLE would only approve the siting of caravans in this form and not within the 'rings.'

DESCRIPTION OF SITE AND SURROUNDINGS

The site is a holiday park for caravans. The existing caravan park (site) comprises a number of static caravans. The application site was formally set within the countryside but is now set within the Built-up Area Boundary. The site features internal 'roads' that form a number of sections or 'rings' known by the applicant as Rings 1-3, Meadow, Compound and Orchard. The static caravans are sited on the outside edge of 'Rings 1-3', and both around and inside the rings known as 'Meadow' 'Orchard and the 'Compound.'

RELEVANT SITE HISTORY

BE/46/10/	Application for removal or variation of condition following grant of planning permission- BR/25/68.	ApproveConditionally 09-07-2010
R/268/14/PL	Retention of use of holiday caravan park to a residential use for 28 pitches.	ApproveConditionally 23-12-2014
BE/171/16/PL	Retention of cafe (A3/A5 use).	ApproveConditionally 21-03-2017
BE/1/53	Use of land as caravan site for 34 vans	ApproveConditionally 04-02-1953
BE/25/68	Use as holiday caravan site for 91 caravans and 3 residential staff caravans	ApproveConditionally

29-05-1968

Officers note planning application ref: BE/85/18/PL for variation of conditions granted under BE/46/10. This application seeks to vary condition 2 of application BE/46/10/ - use of caravan site between certain dates, for a period of 50 weeks. This application is written with a recommendation to grant however it is still, at the time of writing, to be discussed at Planning Committee. Should this current application ref: BE/59/18/CLE be determined and issued, for approval, before BE/85/18/PL, it will not have an effect upon it and vice versa. Each application has been submitted separately. Therefore they can and are being determined independently from each other.

Officers note that there have been a number of applications for the 'top portion' of the site, not 'Rings 1-3' for its use as a Caravan site e.g. application BE/25/68 for Use as holiday caravan site for 91 caravans and 3 residential staff caravans. This application only seeks a CLE for the area known as the '3 Rings' and as such the lawfulness of the rest of the site is not being assessed. Although, having regard to the planning history Officers consider that this portion of the site has permission to operate as a caravan park (holiday use) e.g. - BE/46/10.

REPRESENTATIONS

Representations received:

Bersted Parish Council: No response received.

Comments on Representations received:

None

CONSULTATIONS

Consultations responses received:

No Neighbour representations received.

Comments on Consultation responses:

None

LEGISLATIVE BACKGROUND

Section 191(4) of the Town and Country Planning Act 1990 states:-

"If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on LDC's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

- (i) What is judged on a balance of probability;
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

CONCLUSIONS

ASSESSMENT:

S194 of the Town and Country Planning Act 1990 states that it is a criminal offence to supply false or misleading information. The applicants own statement and the statement provided by them from an ex-warden and now 'resident' of Orchard Park is considered sufficient for these purposes.

EVIDENCE:

The applicant has stated via an email received on the 28/01/2018, that:

"Yes they have they been there about 30 years or more" (with they being the caravans)

The ex-warden, Mr Phillips, has stated in the submitted letter dated the 4th May 2018 that:

"I moved onto this caravan park in 1988 and Rings 1,2 and 3 already had static caravans on the plots. I worked as a warden for many years, now retired but still live on site"

The Council's evidence:

The Council's aerial photography for 1991, 2001, 2005, 2007, 2012, 2012 and 2015 show caravans sited around the outside of 'Rings 1-3. Google Maps aerial photography image date 2019 also shows caravans sited around the outside of 'Rings 1-3 in what appears to be the same pattern as the Council's aerial photography, as aforementioned.

A site visit confirmed that there are caravans (static) sited around the sections of road known as 'Rings 1-3'

Officers note that all the aerial photography available, as aforementioned, seems to show the caravans in the same position over the years. It is noted that there are gaps in the aerial photography available, however Officers consider it, in all probability, unlikely that all the caravans (static) were moved onto the site and moved off the site in the years no aerial photographs are available. While there is no definitive evidence to confirm this, officers have no evidence to confirm that this was or was not the case. Having regard to the 2 statements received along with the fact that the caravans appear to be sited in the same positions on the available aerial photography Officers are satisfied, given that there is no evidence to state otherwise, that caravans have been sited around 'Rings 1-3' for a continuous period of at least 10 years.

OTHER:

While Officers use the word 'caravan' and 'static caravan' throughout this assessment, no details have been provided to allow an assessment of the caravans sited around 'Rings 1-3' against the legal definition of a caravan/static caravan, which was established in the Caravan Sites and Control of Development Act 1960 (Section 29(1)) as amended. Therefore it is up to the applicant to ensure that all caravans stationed around 'Rings 1-3' meet the relevant legislation with regard to size.

The applicants have not stipulated exact numbers of 'caravans sited around 'Rings 1-3', therefore any approval would be for the lawful use of the land around 'rings 1-3' for the stationing of caravans rather than for a specific number.

SUMMARY:

Nothing on the face of it, contradicts the claims (statements) of the applicant and the ex-warden. Furthermore, the aerial photography available shows that caravans have been sited around 'Rings 1-3' over a considerable number of years between 1991 and 2019, in what is believed to be the same pattern. Additionally Should the LPA be challenged there is no evidence to say that the caravans have not been sited around 'Rings 1-3' for a continuous period of 10 years. Therefore based on the available evidence Officers consider that this application should be approved.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that on 10th May 2018 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 for the following reasons:

The use of land for the siting of caravans has been continuous in excess of ten years.

FIRST SCHEDULE

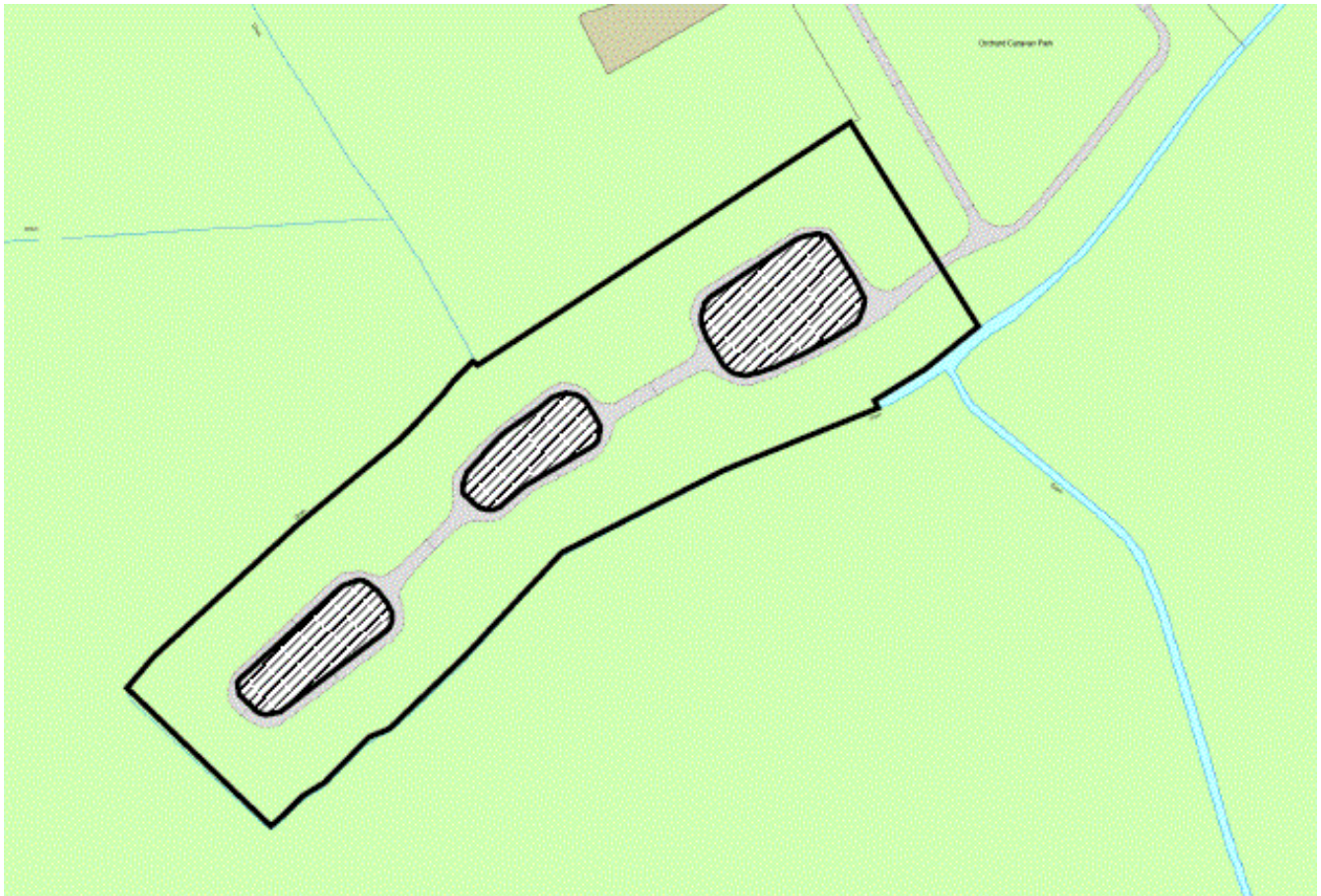
The extent of the use is for the siting of caravans around 'Rings 1-3' only.

SECOND SCHEDULE

Land at Orchard Caravan Park, Barnham which is shown on the plan to this certificate as within the area edged boldly in black. To confirm no permission is given for the siting of caravans (static or otherwise) within the hatched areas on the attached plan.

EXTENT OF USE

The use of the land around 'Rings 1-3' shown within the area edged boldly in black on the attached plan at Orchard Caravan Park, Chichester Road, Bersted for the siting of caravans (static). To confirm no permission is given for the siting of caravans (static or otherwise) within the hatched areas on the attached plan.



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