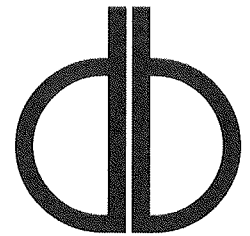


Ref: 0119

22nd May 2019

Planning Department
Arun District Council
Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF
FAO: Mr S Davis



**DOUGLAS BRIGGS
PARTNERSHIP**

INTEGRATED
ARCHITECTURE
AND
TOWN PLANNING

Dear Mr Davis

Application: P/38/19/PL

**Year Round retention of seasonal workers accommodation at
Newlands Nursery, Pagham Road, Lagness**

Thank you for your e-mail dated 20th May 2019 and link to a judicial review for a case in Waverley, The Queen on the application of Hall Hunter Partnership v First Secretary of State, Waverley Borough Council, Tuesley Farm Campaign/Residents Group [2006] and for the avoidance of doubt and your assistance, I have enclosed a copy of the transcript of this case.

You may not be aware that while we were not involved with the judicial review case, we acted as agents for a number of applications for Hall Hunter Partnership at their nearby holdings on Groves Farm, Colworth where the neighbouring district (Chichester District Council) approved several similar applications for the retention of caravans in similar circumstances, CDC references:-

08/03495/FUL
12/04720/FUL
13/03633/FUL
14/03621/FUL
16/03284/FUL

Case Law and the relevance of Permitted Development Rights.

As you may be aware, when a planning decision reaches judicial review, certain points of law are in question and while the presiding judge may comment on individual points and interpretation of law, it is rare for a judge to comment on matters of 'planning judgement'.

This is pertinent when considering the parts of the judgement you refer to in your email and difference in circumstances between the Hall Hunter case in Waverley and this application.

Notwithstanding this, our comments on each of your points about Ground 3 of the judicial review judgement are as follows:-

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ARUN DISTRICT COUNCIL P/38/19/PL



RTPI

mediation of space - making of place

Royal Institute of
British Architects



Ground 3

Refers to relevant parts of the Town and Country Planning (General Permitted Development) (England) Order Part 5, Schedule 2 1995 (GPDO 1995)

While the GPDO 1995 has been replaced by the 2015 version, the relevant sections of Schedule 2, Part 5 of the GPDO 2015 remain the same.

The judge for the Judicial Review, Mr Justice Sullivan comments on an appeal inspector's decision letter and reference to the four criteria that exist within the Caravan Sites and Control of Development Act 1960 ACT (1960 ACT), schedule 1 part 7, that allow seasonal workers accommodation to be sited on farms without the need for express planning consent.

First Criteria: Use of a caravan site of agricultural land for agricultural workers

The need for accommodation to meet the seasonal requirements of agricultural workers is not in question, (indeed that is why the permitted development rights exist) and the lack of affordable and suitably flexible (seasonal) accommodation within the area is highlighted in the planning, design and access statement.

As you rightly point out, this application is not for the applicant's use of their permitted development rights but for a change of use of the land aimed at facilitating the storage of this seasonal accommodation when not occupied (i.e. when the PD rights would require them to be stored elsewhere).

The caravans are located on agricultural land and the occupation of the caravans would continue to be for seasonal agricultural workers and the caravans and would not differ from that allowed under the permitted development rights.

Second Criteria: caravans removed when use discontinued

The permitted development rights require that at the end of any particular season, the caravans are removed from the site for storage elsewhere and returned to the site when required at the start of the following season.

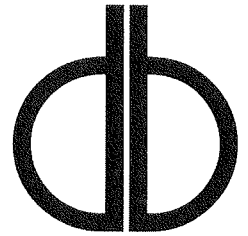
The problems of the requirement to remove the caravans and all their infrastructure (as identified in the Hall Hunter case) was recognised in the later planning applications made by Hall Hunter at Groves Farm to Chichester District Council (see references above).

Chichester District Planners recognised the problems, leading to:-

- Additional vehicular movements of caravans and equipment on local roads at the beginning and end of each season.
- Associated risks of installing and removing temporary sewage and other services at the beginning and end of each season

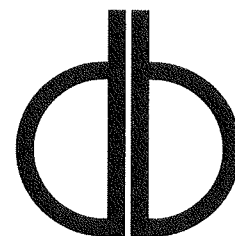
Chichester District Council concluded that any planning detriment arising as a result of the storage of the empty caravans when not occupied was more than outweighed by the planning benefits of reductions in traffic, ability to install more permanent services, (reducing the risks of spillages etc) and opportunity to allow the applicants to invest in the site to improve screening and management and approved those applications in line with their planning judgement.

We do not contest that this variation of the use requires consent, this is what the application is seeking your council's approval for.



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Third Criteria: accommodation during a particular season

What constitutes 'a particular season' is a difficult matter to resolve and as Mr Justice Sullivan indicated in the Hall Hunter Case, the interpretation is not made any easier by the age of the language used in the 1960 ACT that Mr Justice refers to as "*an impression a vanished agricultural era*".

However, Mr Justice Sullivan was not determinative in what constitutes a particular season (he sets no legal test) he merely agreed with the appeal inspectors planning judgement in concluding that 9-10 months for that particular case did not constitute a particular season, despite the age of the language in the 1960 ACT.

Agricultural seasons are not fixed and vary widely between crops, areas and growing systems. The wider use of glasshouses has enabled several crops to be grown through much wider seasons.

To assist with your judgement, the applicant's propose 10 months occupation at Newlands Nursery to accommodate the varying number of staff that the agricultural operations require during the comparatively wide season within the glasshouses on site.

During the busiest harvest times the caravans would all be full but during the quieter parts of the season, many of the caravans would be unoccupied (requiring their removal if PD criteria 2 continued to be applied).

The 10 month season is employed here to assist in enforcement so that when 'out of season' your council's officers may inspect the site to ensure compliance and the site does not become permanently occupied.

This condition was employed on the Groves Farm applications listed above and similar conditions are widely applied to Tourist Accommodation for similar reasons.

Forth Criteria

Mr Justice Sullivan deals with the interpretation of the 1960 ACT reference to "persons employed on land in the same occupation" in a similar manner to the third criteria above but intentionally avoids reaching any particular conclusion.

In the judicial proceedings, Hall Hunter questioned the appeal inspector's interpretation that agricultural workers spending a proportion of their time at other farms in the same ownership did not comply with the 'same occupation' criteria of the 1960 ACT and Mr Justice Sullivan stated "I have some sympathy with this criticism of the decision letter, but bearing in mind that the issue was very much one of fact and degree, I would have been very slow indeed to substitute my own judgement" casting doubt over the inspector's interpretation.

However, this is an ideal example of the judiciary reluctance to become involved in 'matters of planning judgement' where Mr Justice Sullivan also comments that 'happily' it was unnecessary for him to conclude as the case had been decided on other points and thus is not determinative in the interpretation of 'in the same occupation'.

To assist, the site is for the sole use of agricultural workers employed within the group that like Hall Hunter, the Group own more than one site and some staff move between sites depending on the agricultural operation at hand.

However, as described in the planning, design and access statement, this application forms part of a programme within the Group to provide seasonal workers accommodation close to the places that they work with accommodation planned for sites close to each of the groups holdings as a result of the loss of accommodation that was formerly available in Bracklesham (South Downs Workers Village).

The applicant estimates that agricultural workers occupying the accommodation during the working season would be engaged in work on the Newlands Site for an average of 85-90% of their daily working time.

Relevance to the Application

As you rightly point out, the council cannot decide this application on the grounds of whether or not the use for the accommodation of agricultural workers is PD or not as this is not an application about the lawfulness of permitted development and this application seeks permission to not comply with criteria 2 of the 1960 ACT.

However, irrespective of how you interpret how long a season may be, or how much of their daily working time workers work on this particular site, it is still relevant to note that as it stands the land in question may be used by virtue of the Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2, Part 5;

"as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation" Caravan Sites and Control of Development Act 1960 ACT, schedule 1 part 7.

As stated above, this application seeks a change of use of the land aimed at facilitating the storage of this seasonal accommodation when empty, whereby the physical and environmental impacts of the second criteria of the permitted development (to disconnect and remove the caravans) may be avoided.

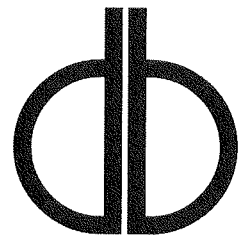
We trust the above is of assistance and clarifies the application proposals.

With kind regards

Yours sincerely

Paul Hughes

Enc.



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