

FROM:

Delwyn Jones
Planning Solicitor
Resources Department
Tel Ext
Dated

TO:

David Easton Planning Officer

REF:P/94/14//CLP CONSULTATION

ADDRESS : FIELD VIEW PAGHAM

NATURE OF USE : ADDITIONAL GYPSY CARAVAN ON SITE WHERE 2 ALREADY EXIST

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.

2.GENERAL RECOMMENDATION

I recommend you may have reasons to refuse, this application for reasons that follow subject to your finding any contradictory evidence.

My advice is somewhat tentative –until more information emerges on definition of red edged boundaries of the site.

It depends on how you define the site boundary.

For the applicant to succeed the site boundary must be the red edge on application ref P/94/14/CLP c covering the 2 existing caravans plus the proposed site of the third on the north east corner ie the whole site .

The application states at para 7 “ use of the site for stationing of caravans is authorised under ref P/2/86 and ref P/113/07”

I suggest if you can show [as appears is the case] that ref P/2/186 and P/113/07 did not cover the whole site then you may argue to the contrary that ----“ use of the site for stationing of caravans is authorised under ref P/2/86 and ref P/113/07”

The agent does not mention this or site plans.

I add and say --- I suggest these applications nearby may be grounds to support a fresh, third planning application, but doesn't support a CLP.

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

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

(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.

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.

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.

The Agents Claim

The Agent’s statement argues that adding a third caravan/mobile home is not “development.” So no planning permission is required.

The argument is based on the whole of the site being capable of accommodating three caravans, and there being no “intensification “ as a result. This may support a planning application, but not a CLP. [PROVIDED THAT the red edge on the previous applications surrounds the caravans and not the whole site!]

The site History

The site history I have examined or suggest you examine is :-

Ref Number	Item of Evidence	Comment
P/2/86	One caravan for gypsy	I suggest you examine the site plans to see how the red edge defines the site –if the red edge surrounds only the caravan we may have a case to refuse
P/113/07	One caravan for gypsy	I suggest you examine the site plans to see how the red edge defines the site –if the red edge surrounds only the caravan we may have a case to refuse
P/76/10 to amend ref	The site is stated in the officers report to <u>measure 0.069 msq</u> ie the dimensions of the	

P/2/86	caravan not the whole site This has no site plan showing the 1 st caravan but the dimensions suggest the planning permission ref P/2/86 covered only the caravan not the rest of the site	
P/100/10 to amend P/113/07	The site is stated in the officers report to measure <u>0.059msq the dimensions</u> of the caravan not the whole site This has a site plan showing the 2 nd caravan edged red and the rest of the site edged blue	
P/94/14/CLP	Present CLP application	

I have not been able to examine the whole planning history as refs P/2/86 and P/113/07 are not accessible on the website.

If you are able to access the microfiche, and the plans show the caravans [and not the whole site] edged red then you may have a case to refuse a CLP claiming – “use of the site for stationing of caravans is authorised under ref P/2/86 and ref P/113/07”. The reasons being the whole site is not covered by these planning permisisions.

I accept that it may follow that a planning application is submitted based on the previous two permissions, but that may be more arguable than a CLP!

I also accept that if the whole site is covered then case law cited by the agent would tend to be in favour of an extra third caravan being no change of use ----unless you can show some adverse consequence of the third caravan.

Please come back to me if your searches of the microfiche reveal the red edging is confined to the caravans and not all the site.

I note from the Decision Letters this is an argument that the agent has tried before and succeeded ----in 2 cases out of 3. As I read these cases they are all based on a single planning permission for one whole site , and not [as appears here subject to further investigation of site plans] to separate caravan plots .

4.FURTHER EVIDENCE

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

Please come back to me if your searches of the microfiche reveal the red edging is confined to the caravans and not all the site.

5.TERMS FOR A TENTATIVE REFUSAL SUBJECT TO YOUR FINDING SITE PLANS FOR REF P/2/86 AND P/113/07

1. REFUSE
2. use of the site for stationing of caravans is NOT authorised under ref P/2/86 and ref P/113/07”
3. under ref P/2/86 and ref P/113/07” are shown by site plans only to cover individual and separate caravan plots

ref/lgdr/lprec/pl/cleudetcmodelmem

ref