



## Appeal Decision

Inquiry held on 13 and 14 March 2019

Site visit made on 14 March 2019

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 05 April 2019**

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**Appeal Ref: APP/F2605/X/17/3192114**

**Puddledock Farm Caravan Park, Great Hockham, Thetford, Norfolk**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Plum Tree Country Park Limited against the decision of Breckland District Council.
  - The application Ref 3PL/2017/1364/LU, dated 24 October 2017, was refused by notice dated 14 December 2017.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is siting of mobile homes for permanent residential occupation.
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### Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is considered to be lawful.

### Procedural matter

2. An application for costs has been made by the Appellants against Breckland District Council. This application is the subject of a separate decision.

### Reasons

3. Puddledock Farm Caravan Park is an established caravan and camping site. The site is predominantly open flat ground, mainly laid out as pitches, though there are buildings that are used as offices, toilets and a shop. There is an area defined by hedges that is used for caravan storage but this use is ancillary to the principal use of the site. An application for an LDC was granted in 2006 that established the lawful use of the site to be, on 15 March 2006, the 'use of land as a caravan and camping site including associated amenity area'. The land to which the LDC relates was referred to during the Inquiry as 'the northern land'.

4. To the south of the northern land are three rectangular areas of flat grassland, referred to during the Inquiry as 'the southern land'. In 2010 planning permission was granted, pursuant to an application submitted in 2009, for the southern land for the 'change of use of land to be used as extension to existing camping pitches'. The site location plan that accompanied the application identified the northern land, with a blue line, as being in the same ownership as the southern

land. Condition 3 of the permission states that 'The number of occupied pitches on the application site and the blue land is hereby restricted to a maximum of 160 at any one time'.

5. The southern and northern areas of land have been owned together since before the grant of the LDC in 2006. In this regard, a plan for an application submitted in 1991 for an extension to a toilet block on the northern land indicates the site area to be both areas of land. The Council accepted at the Inquiry that the combined area of land has been a single planning unit since before the 2006 LDC application. The southern land was described to be 'fallow' in the 2009 application. This description, in the absence of evidence to indicate that the land was in use for agriculture, simply indicated that the land was an unused part of the planning unit. So the effect of condition 3 was that the use of the northern land for 160 camping pitches, amongst other things, was permitted to spread over the southern land.

6. The 2010 permission resulted in a change to the use of land within the planning unit. Given that there was no change to, or intensification of, the overall use of the planning unit as a caravan and camping site, the change of use was not material. Even if the northern land is considered on its own, the 2010 permission only controlled or 'diluted' the number of camping pitches on that land which did not result in a material change of use of the land. No other evidence alters the conclusion that there has been no material change of use of the planning unit or the northern land since the date of the 2006 LDC application.

7. The Council and others maintain that it was intended that the lawful use of the land established in 2006 was for a touring caravan and camping site. The land has, in fact, been licensed and used as a site for touring caravans and camping, including the pitching of tents and for motorhomes, until recently. However, the lawful use stated on the 2006 LDC decision notice must be read as it is written; it does not, as a matter of fact, restrict the use of the site to be for touring caravans only. Restrictions, in this regard, cannot be implied or inferred from what might, or might not, have been intended.

8. The Appellants have referred to an appeal decision relating to Rowland Nurseries in Billingshurst. The circumstances of that case are different to those in this case but it is worth noting that the Inspector referred to guidance in the National Planning Practice Guidance (PPG), "...a certificate for existing use must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a use class...In all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision. This is particularly important for uses which do not fall within any "use class"..."

9. The Council has suggested that the use established as lawful by the 2006 LDC is ambiguous, because the main parties disagree about its interpretation. Disagreement, in itself, cannot be a reason to find a use established by the grant of an LDC ambiguous. If it did then one party could simply take up an unreasonable contradictory stance to the other party to establish ambiguity.

10. The Council has also suggested that the use of the site solely for short-term holiday purposes, since the grant of the 2006 LDC and until recently, has established or has qualified the lawful use of the site to be for holiday purposes only, thus excluding the siting of caravans for long-term habitation purposes. This suggestion is unfounded. The use of the site for holiday purposes falls within the

scope of the 2006 LDC and does not preclude the use of the site for any other use of the site, as long as it too falls within the scope of the LDC. In this regard, if successive or combined uses of the site all fall within the scope of the LDC then, setting aside possible intensification, no material change of use will have occurred.

11. Case law, *Broxbourne Borough Council v SSE (1980) QB1*, which is specific to LDCs rather than planning permissions, and others, up to and including *Menston Action Group v City of Bradford MBC [2016] EWCA Civ 796*, make it clear that reference to extrinsic material to interpret the 2006 LDC is only necessary if the stated use is not clear and unambiguous. This is the principal argument between the parties. The Appellants maintain that the stated use is clear and unambiguous whilst the Council maintains the opposite. The disputed part of the use stated on the 2006 LDC is 'caravan and camping site'.

12. There is, in fact, no dispute about the interpretation of 'caravan'; this being defined in the Caravan Sites and Control of Development Act 1960 (the CSCDA) and further in the Caravan Sites Act 1968 (the CSA). In the CSCDA a 'caravan' is defined as "...any structure designed or adapted for human habitation which is capable of being moved from one place to another...", and the CSA provides a definition of twin-unit caravans. The CSCDA also provides a definition of 'caravan site' as "...land on which a caravan is stationed for the purposes of human habitation...". There is no statutory definition of 'camping' but it is reasonable to refer to, as do the Appellants, the Oxford English Dictionary definition of a camp site as "...a place used for camping, especially one for holidaymakers...".

13. The Council has suggested that there is ambiguity in the use of 'and' in 'caravan and camping site', as opposed to 'or'. There is no ambiguity and there only would be if the two uses are incompatible, which has not been suggested. The plain and reasonable interpretation of the phrase, in this regard, is that the two compatible uses can occur alongside and at the same time as each other. The lawful use of the land permits the stationing of caravans for the purposes of human habitation and the use of the site for camping particularly by holidaymakers. The latter use does not qualify the former and, in this regard, 'particularly by holidaymakers' cannot be applied to the 'caravan' use, even though caravans on the site have apparently been used by holidaymakers until recently.

14. The use of the land established by the 2006 LDC was the lawful use of the land on the date of the application. The use does not, as a matter of fact, specify any restrictions on the type of caravans that can be lawfully sited on the land. It does not, furthermore and also as a matter of fact, limit the use of any caravan so sited to be for holiday purposes only. The 2006 LDC is clear and unambiguous on its face and a mobile home, falling within the definition of a caravan in the CSCDA or in the CSA, can lawfully be sited on the northern land and can be lawfully occupied for human habitation, whether this be by holiday makers or permanently.

15. For the reasons given, and as a matter of planning judgement, the Council's refusal to grant an LDC for the siting of mobile homes for permanent residential occupation at Puddledock Farm Caravan Park, Great Hockham, Thetford, Norfolk was not well-founded and the appeal thus succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

***John Braithwaite***

Inspector





## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 24 October 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use falls within the continuing lawful use of the land established by Lawful Development Certificate 3PL/2006/0486/EU

Signed

*John Braithwaite*

Inspector

Date: 05 April 2019

Reference: APP/F2605/X/17/3192114

### **First Schedule**

Siting of mobile homes for permanent residential occupation

### **Second Schedule**

Land at Puddledock Farm Caravan Park, Great Hockham, Thetford, Norfolk

### NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

This is the plan referred to in the Lawful Development Certificate dated: 05 April 2019

by **John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

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**Reference: APP/F2605/X/17/3192114**

Scale: not to scale

