



Appeal Decision

Site visit made on 8 January 2018

by Andrew Hammond MSc MA CEng MIET MRTPI

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

Decision date: 08 February 2018

Appeal Ref: APP/L3245/X/17/3175889

Cleobury Mortimer Golf Club, Wyre Common, Cleobury Mortimer DY14 8HQ

- 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 Lakeside Country Park against the decision of Shropshire Council.
 - The application Ref 16/05421/CPL, dated 24 November 2016, was refused by notice dated 8 March 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 the siting of additional caravans for the purposes of human habitation as a person's sole or main place of residence.
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Decision

1. The appeal is dismissed.

Reasons

2. Planning permission 13/01584/COU for "Change of use of western area driving range/practice area for siting of additional holiday chalets" at Cleobury Mortimer Golf Club was granted on 17 July 2013 and the Council acknowledge that it has been implemented. There were a total of 13 conditions attached to the permission.
3. There is no dispute between the parties that the reference to "chalets" in the application related to caravans as defined in the Caravan Sites and Control of Development Act 1960 as amended by the Caravan Sites 1968. Condition 5 specifically requires that the [approved] chalets meet that definition.
4. The appellant contends that the permission is for change of use of the land to use as a caravan site and that the conditions attached to the permission do not limit the number of caravans on the site nor do they stipulate that the occupation of any additional caravans should be limited to occupation for holiday purposes. Hence the application sought an LDC for additional caravans for the purposes of human habitation as a person's sole or main place of residence.
5. The appellant is correct in stating that there is no condition attached to the permission which specifically limits the number of caravans/chalets on the site to 19 as envisaged in the application. In the absence of any other limitation on

- numbers, imposed by condition, it would be correct to state that there would be no limit on the number of caravans sited upon the caravan site as approved by the planning permission.
6. Furthermore, the appellant suggests that Condition 4, which reads "The holiday chalets shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main place of residence. The owners/operators shall maintain an up-to-date register of the owners/occupiers of individual chalets on the site, and of their main home addresses and shall make this information available at all reasonable times to the local planning authority.", only applies to the 19 chalets and not to any additional caravans.
 7. Condition 3 reads "The holiday chalets shall be sited in the positions shown on drawing number CM102.SK4 Rev B, received by the Local Planning Authority on 18th June 2013, and no alterations shall subsequently be made without the prior written approval of the Local Planning Authority.
 8. Planning conditions fall to be construed in the context of the planning permission as a whole in a common sense way and in conjunction with the reasons given for their imposition. The reason given for Condition 3 is "In the interests of the visual amenities of the area."
 9. A reasonable reader would construe Condition 3 as requiring the use to be carried out subject to the constraints of the approved layout, including limiting the number of additional caravans/chalets to those shown on the approved plan, namely 19. The intent of the condition clearly was and is for that to be an ongoing requirement. I find that to be the clear purpose and meaning of that condition. Given the ongoing requirement of the condition, the permission as a whole cannot be read to mean that once the development has been implemented in accordance with the approved plans that the layout does not need to be retained or that additional development is lawful.
 10. It follows that the siting of caravans, either beyond the 19 shown or located other than as shown, would not be lawful.
 11. With regard to occupancy of any additional caravan, given the conclusion above it is not necessary to consider further the interpretation or scope of Condition 4.
 12. The appellant has cited High Court Judgements "I'm Your Man"¹ and "Cotswold Grange"² in support of the appeal.
 13. "I'm Your Man" established that there is no power for an implied limitation in the description of a planning permission. There is no suggestion by the Council that there is an implied limitation in the description as opposed to a specific condition.
 14. In "Cotswold Grange" again there was no condition limiting the number of caravans. A condition stipulating that caravans only be used for holiday purposes did not refer to 54 caravans or to any caravans on the site. The proposal for an additional 6 caravans was found not to represent a material

¹ I'm Your Man Limited v Secretary of State for the Environment [1999] PLCR 109

² Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government and Tewkesbury Borough Council [2014] EWHC 1138 9Admin)

change of use. In the current case there is a condition, Condition 3, which stipulates that the layout, of 19 chalets, shall be retained.

15. Therefore neither of the cited judgements supports the appellant's case.
16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the siting of additional caravans for the purposes of human habitation as a person's sole or main place of residence at Cleobury Mortimer Golf Club, Wyre Common, Cleobury Mortimer DY14 8HQ was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Hammond

Inspector