

TOWN & COUNTRY PLANNING ACT 1990 (as amended)

S174 APPEAL

(Inquiry procedure)

PROOF OF EVIDENCE 2

DORSET COUNCIL

Appeals and Material Considerations

Appellant

ROYALE PARKS (DORSET) LTD

Against the issue of an enforcement notice in respect of use of land

Land

GUNDRYS FARM

School Lane, Three Legged Cross, Wimborne, Dorset, BH21 6RU

By Reference

PINS APP/U1240/C/18/3218259

LPA ENF/17/0094

Appendices for this Proof

- 1. Enforcement Notice background documents**
- 2. Historical Planning Decisions***
- 3. Appellant 2017 LDC Applications***
- 4. Chart Exempted Organisations Bookings**
- 5. Dorset Heathlands Planning Framework extracts**
- 6. Statutory Declaration of previous Council employee**
- 7. Site Photographs**
- 8. Aerial Photographs**
- 9. LPA Letter to PINs**

*The LPA provides the Decision, plan and officer report. Where historical files require closer examination, paper copies can be provided on the day as they are large files and need redacting.

INTRODUCTION

- 1 My name is Elizabeth Adams, I am employed by Dorset Council to provide evidence on planning matters to the inquiry.
- 2 I hold a Bachelor of Arts (Hons) degree in Geography, Business and the Environment from the University of Nottingham (2003) and a post-graduate Master of Science degree in Spatial Planning (2007) from Oxford Brookes University. I have been a Member of Royal Town Planning Institute for the past ten years.
- 3 I confirm that the content of this Proof of Evidence are true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
- 4 I set out within this document what I am advised and believe to be the planning and legal position on this appeal under s174 of the Town and Country Planning Act 1990 (as amended) ("the Act 1990").

THE APPEAL SITE AND ITS SURROUNDINGS

- 5 I visited the Appeal Site on the 8 January 2020 to familiarise myself with the topography and layout. On the day I visited the campsite was closed and I did not see any caravans in occupation.

Location

- 6 The site is in the area of Three Legged Cross which lies around the staggered junction of the B3072 Verwood to West Moors road and the C2 Ashley Heath to Horton road (Ringwood Road at this point). The area is one of scattered housing in level countryside, centred around a small area of denser housing identified as a rural service centre in the Local Plan. Although Three Legged Cross has limited facilities, these do include a village hall, First School, pub, church, chapel and

shops. Apart from the Three Legged Cross identified settlement, and the nearby industrial estate at Woolsbridge to the east, the area is designated as part of the South East Dorset Green Belt.

- 7 Gundry's Farm Caravan and Camping site lies in the Green Belt south east of the settlement and south of piecemeal ribbon development along Ringwood Road from which it is separated by paddocks. Internationally designated Dorset Heathland lies to the south and east of the site; this adjoining heathland area is in use by West Dorset Defence Petroleum Centre and there are various buildings/structures visible from the application site but overall the area benefits from a rural, tranquil character.
- 8 The appeal site is enclosed by hedging, including mature trees. Approach is from the north with Gundry's Farmhouse being the southernmost residential property accessed from School Lane, a narrow highway with unmade verges. The lane is adopted and can accommodate two way traffic, but offers no pedestrian walkways and the limited width encourages slow traffic speeds. Vegetation, including hedging and trees, softens the impact of the few dwellings and adjacent paddocks and the street verges contribute to a rural character.
- 9 A separate farm gate entrance off the private drive to Gundry's Farmhouse provides direct access to the camping paddock B1 and through to B2. Area A can be accessed via a track which runs along the north of the site, the extension of which is subject to the Enforcement Notice. It was evident from my visit that the made track would assist non-agricultural vehicles in accessing the land during wet periods when the land is waterlogged. A gateway exists on the northern boundary between area A and land south of Westerly Grange but there is currently no formal access through for vehicles.
- 10 Unhindered pedestrian access is provided within the site between the different areas with the exception of the westernmost field. Movement between the areas

is encouraged by signage to the ablution blocks and dog walking and exercise areas. The only area that was identified by signage as private on the date of my visit was the storage area north of the office and workshop buildings, although the dwelling also benefits from fencing to demarcate a private space.

Dorset Heathlands, Dorset Heaths

- 11 The site lies adjacent to Holt and West Moors Heaths Site of Special Scientific Interest and within 5km of Hurn Common SSSI, St Leonards and St Ives SSSI, Verwood Heaths SSSI and Slop Bog and Uddens Heath SSSI. These areas of lowland heath are protected by international designations; they forms part of Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Dorset Heathlands Ramsar.

It is the view of Natural England that the cumulative effect of a net increase of residential development up to 5km from protected heathland in Dorset would have a significant adverse effect on the integrity of protected heathland as a result of increased pressures arising from the new occupants of those developments. Development including a net increase in self-catering, caravan and touring holiday accommodation are considered by Natural England to have broadly similar effects to those arising from residential development and would therefore act in combination with these (**Appendix 5**). The Dorset Heathlands Planning Framework 2015-2020 was adopted by local authorities in south east Dorset as a Supplementary Planning Document (SPD) to set out an approach for how harm to the heathland can be avoided. The framework has been in place since December 2006.

The SPD notes that the effects of development on heathlands, as set out in Table 1 (p7) of that document (attached as **appendix 5**), are most marked for development within 400m of heathland where Natural England advise that additional residential development is likely to have a significant effect upon the designated sites, either alone or in combination with other development. Although Ground A is not being

considered, the relationship of the application site to designated heathland has relevance in that the likely harmful effects of additional caravan accommodation should be factored into any consideration of whether a material change of use has occurred.

THE COUNCIL'S CASE

12 The Breach of Planning Control

The Council has consistently informed the Appellant that there are multiple breaches of planning control which amount to:

- by S171A (1) (a), new development and use of land without planning permission – Area A particularly;
- use contrary to the lawful extent of the use of Certificates for areas B1 and B2, C and D for which any use is not immune from enforcement action by s171B (3).

13 Opportunity to regularise a breach of planning control

Other than the submission of the 2017 applications, no action was taken to cease any breach identified prior to the issue of the enforcement notice. The enforcement report sets out at paragraph 6.9-6.17 the extent of considerations, negotiations and correspondence (**appendix 1**).

13A An informal site inspection (general observations) was made by the Council's officers on 23 October 2019 and it was concluded –

- Area A was clear of units of accommodation when officers visited although infrastructure remains in situ.
- In respect of areas B1 and B2 there were caravans stationed and stored; Mrs Pitt (the manager at the time) announced that the site “closed” at the end of October.

- There was a caravan stored and positioned behind the office within area C.
- The showers and washing up area attached to the dwellinghouse remained in situ as did the WC block marked X within area C.
- There was some storage of caravans within area D.

A statutory declaration of the Council's former Major Development Officer who attended the site visit is provided at **appendix 6**.

14 **Photographs**

The Council has recorded unauthorised use by photographs, included at **Appendix 7**.

Aerial images

Aerial images with commentary are provided at **Appendix 8**.

15 **Third Party Observations**

During 2017 and 2018 the Council received information from third parties in respect of:

- Caravan movements into the site during winter months
- Cars remaining onsite overnight in October and through the winter period
- Noticeable increase in movements of cars and motorbike to and from the site coinciding with commuter traffic times suggesting that the caravans have been used as more than holiday accommodation
- Activities associated with longer term occupation such as grass mowing on an individual pitch, dog barking, increased number of large vehicle movements associated with emptying of cess pit and toilets

16 **Expediency for Enforcement Action**

Expediency for enforcement action was comprehensively considered within the

expediency report (**appendix 1**).

COMMENTARY ON THE APPEALS

17 The Appellant sets out Appeals for various areas of the planning unit, as follows

AREA A

18 **Ground D**

This appeal repeats the basis of what was examined by **3/17/2370/CLE**.

Reference is made in the appellant's statement to evidence from previous owners.

The Certificate of Lawfulness application was accompanied by a statutory declaration by Basil Reginald Pitt, former owner and manager, which was fully considered against other available evidence in the assessment of the application.

The officer report setting out the assessment is available as **Appendix 3A- Final officer report** and the evidence is collated in **Appendix 3A- Appendices Officer Report**.

Photographs are provided at **appendix 7** and aerial photographs at **appendix 8** which support the Council's position that the siting of caravans and associated operational development, together with caravan storage, is unauthorised. The use has necessitated the installation of supporting infrastructure and is associated with a material increase in traffic and vehicle movements to and from the site by visitors and service vehicles.

It would appear that within the appeal grounds statement no fresh evidence comes forward to demonstrate that the Council's decision to refuse was not well-founded. The Appellant has failed to prove its case on the balance of probability and provides no documentation as expected in an appeal.

AREA B1

19 **Ground C**

This appeal repeats the basis of what was examined by **3/17/1464/CLP**, appeal and

by s288 High Court challenge (**appendix 3B**). The Appellant is unreasonable to attempt make this appeal given the recent refusal and adverse decisions.

20 **Ground D**

The Appellant claims that within area B1 there has been modest increases to the periods of use and this has been commonplace for in excess of 10 years. The Appellant has failed to prove its case on the balance of probability and provides no documentation as expected in an appeal.

21 **Ground F**

It is the Council's position that Enforcement Notice section 5 requirement (i) seeks to bring the use of the paddock B1 back into accordance with the lawful use identified by the Lawful Development Certificate 3/96/9024 (**appendix 2**) which referred to both a specific time period and the maximum number of caravans/tents to be sited in the paddock at any one time. Therefore, subject to an amendment to the Enforcement Notice wording to clarify that the number of caravans/tents shall be limited to no more than 24 "at any time" the requirement is not onerous.

Nevertheless, the Council accepts that the Enforcement Notice does not identify a breach of planning control in respect of the number of caravans that have been sited within the paddock and therefore the Council accepts that the requirements set out in 5 i) are not essential to overcome the identified breach of planning control so would not object if the Inspector was minded to agree to the appellants' request that the Enforcement notice be modified to omit this requirements.

AREA B2

22 **Ground C**

This appeal repeats the basis of what was examined by 3/17/1464/CLP, appeal and by s288 High Court challenge (**appendix 3B**). The Council's position is that this is

unreasonable.

23 **Ground D**

The Appellant claims that within area B2 there has been modest increases to the periods of use and this has been commonplace for in excess of 10 years. However the Appellant has failed to prove its case on the balance of probability and provides no documentation as expected in an appeal.

24 **Ground F (requirement I)**

It is the Council's position that Enforcement Notice section 5 requirement (I) seeks to bring the use of the paddock B2 back into accordance with the lawful use identified by the Lawful Development Certificate 3/10/0137 which referred to both a specific time period and the maximum number of caravans/tents/motorhomes to be sited in the paddock at any one time (**appendix 2**). Therefore, subject to an amendment to the Enforcement Notice wording to clarify that the number of caravans/tents/motorhomes shall be limited to no more than 30 "at any time" the requirement is not onerous. Nevertheless the Council accepts that the Enforcement Notice does not identify a breach of planning control in respect of the number of caravans that have been sited within the paddock and therefore the Council accepts that the requirements set out in 5 (I) are not essential to overcome the identified breach of planning control so would not object if the Inspector was minded to agree to the appellants' request that the Enforcement notice be modified to omit this requirements.

AREA C

25 **Ground D**

Toilet Block

Having re-examined the aerial photograph from 2014 (**Appendix 8**) Officers note that there is a darker mark in the approximate position marked X on the

Enforcement Notice plan which could be the roof of a building to which the appellant is referring; shadows within the photograph do not assist analysis and it is the Council's case that, without clear or supporting evidence, the aerial photograph is not sufficient to make a finding on the balance of probability.

26 Conversion of part of house to toilet and shower facilities

No evidence has been provided to establish the assertion that the conversion took place more than 10 years ago so as to be lawful by reason of time.

27 Static caravan

It is the Council's position that the unilateral undertaking (provided in **Appendix 2, ENF 11 00052**) sets out the lawful and permitted use of the caravan for purposes incidental to the enjoyment of the dwellinghouse. The unilateral undertaking also required that the caravan be occupied by a person(s) who are members of the same household occupying the dwelling and that only one caravan should be stationed on the area identified.

The Appellant has failed to prove its case that the occupation of the static caravan other than for this purpose is lawful on the balance of probability and provides no documentation as expected in an appeal.

28 **Ground F**
Caravans (Requirement o)

It is the Council's position that the removal of the additional caravans from the area around the dwellinghouse is necessary to remedy the breach of planning control, with the exception of the caravan which has its use tied to the residential dwelling by means of the legal agreement (Appendix 2 ENF 11 00052).

29 Office (Requirement s)

The Council recognised that reference to the office had been omitted from the

Enforcement Notice, paragraph 3 (iv) due to a drafting error and brought this to the attention of the Planning Inspectorate in a letter dated 13 February 2019 which was acknowledged with an automated response. It appears that this letter (provided as **appendix 9**) was not received by the appellant.

It is the Council's position that there is no evidence that the office use is lawful and therefore requirement (s) is not excessive to remedy the breach of planning control that has taken place.

AREA D

30 Ground F (requirement u)

Requirement (u) seeks to bring the use of the land back within the description of lawful development identified by Certificate 3/10/0135 (**appendix 2**). The allegation at paragraph 3 (v) is that additional caravans and motorhomes for accommodation have been brought onto the site. It is therefore reasonable to require that all caravans, motorhomes, campers and associated tents and awnings that are not on the site for the lawful storage purposes of up to 25 caravans are removed.

ENDS