
Site Address: Land adj to Westar Hayling Island Holiday Park, Manor Road, Hayling Island, PO11 0QS

Proposal: Application for Lawful Development Certificate relating to the stationing of 112 No. static caravans for occupation (other than warden accommodation) between 1 March and 31 December in any calendar year

Application Type: Certificate of Lawfulness

Application No: APP/23/00769 Expiry Date: 03/11/2023

Applicant: Hayling Island Holiday Park Limited

Agent: Mr Hancock Case Officer: Lesley Wells
Laister Planning Limited

Ward: Hayling West

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

01 Site Description

- 1.1 The site address is a caravan holiday park located in the south west of Hayling Island.
- 1.2 The main access point to the site is from Manor Road. The site is situated in a semi-rural environment with residential housing to the west and north and open land to the east.
- 1.3 The land in question is to the south and east of the caravan holiday park. The site contains mature trees and hedges particularly along the side.
- 1.4 The site is close to many significant natural and historic heritage assets however it is covered by none of them. The closest assets are listed buildings which surround the site. Those are the Grade II Listed: Flint Cottage adjacent the site to the north west; Newton House Hotel adjacent the site to the south west; Farm Cottage and Rook Farmhouse adjacent the site to the south east; and the Grade II* Church of St Mary adjacent to the site at the north east.
- 1.5 The majority of the site is within Flood Zone 1 with the exception of the top north-east section being within Flood Zone 2/3.

2 Planning History

95/52816/004 - Use of land for additional 2 months per annum November and December so allowing use of caravan park for 10 months instead of existing 8 months., S106,26/07/2001

95/52816/005 - Extension to form toilets to existing clubhouse on eastern elevation, PERM,16/11/1995

94/52816/003 - New outdoor swimming pool and pump room, PERM,21/12/1994

03/52816/006 - Application for Certificate of Lawfulness relating to the proposed use of the southern part of caravan park as a caravan site for residential mobile homes., NFA,02/11/2012

03/52816/007 - Application for Certificate of Lawfulness relating to the proposed use of part of the northern part of the caravan park as a caravan site for residential mobile homes., NFA,02/11/2012

05/52816/008 - Demolition of existing and erection of new reception, restaurant, shop, pool, gym, pub etc together with external works., PERM,09/02/2006

05/52816/009 - Display of 1 externally illuminated and 3 non-illuminated board signs., PERM,23/03/2006

06/52816/010 - Resubmission of erection of new reception, restaurant, pool, gym, pub etc, together with external works. , PERM,21/07/2006

07/52816/011 - Change of use of recreation area to accommodate 22 static caravans. New recreation area., PERM,13/06/2007

08/52816/012 - Resurface caravan display area and new footpath., PERM,25/02/2008

08/52816/013 - Widen access road with reinstatement of kerb line adjacent to public footpath and disabled access., PERM,03/06/2008

09/52779/007 - Extension to existing toilet block., PERM,16/11/2009

10/52779/008 - Variation of Condition No. 4 of Planning Permission 15332/16 to allow the use of all the site for winter caravan storage., PERM,24/06/2010

10/52779/009 - Extension to existing toilet block and erection of temporary toilet block., PERM,27/04/2010

10/52816/014 - Siting of 6No. holiday caravans., WD,09/03/2010

APP/10/00754 - 6No. additional caravans and ancillary works., PERM,15/12/2010

APP/20/00852 - Extension to restaurant with Bio-Climatic Pergola., PERM,06/11/2020

APP/22/00594 - Please see accompanying covering letter to follow, UNK,

APP/22/01096 - A Certificate of Lawfulness for the use of the land the subject of this application was granted as a holiday park for recreation purposes ancillary to a caravan site - 23/2/23

3 Proposal

Application for Lawful Development Certificate relating to the proposed stationing of 112 No. static caravans for occupation (other than warden accommodation) between 1 March and 31 December in any calendar year.

The description of the application has been amended from *the proposed siting of 112No. static caravans for year round occupation*, following the agreement of the applicant's agent to the wording above .

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Brenda Linger - Hayling West - No Comment

Councillor Julie Richardson - No Comment

Councillor Paul Gray - No Comment

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
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7 Legal Considerations

- 7.1 On 23/2/23 under reference APP/22/01096 a Certificate of Lawfulness (CoL) for the use of the land the subject of this application was granted as a holiday park for recreation purposes ancillary to a caravan site. This ancillary use of the land is linked to Westar Hayling Island Holiday Park, which is in the same ownership and within the same planning unit, when assessed against the criteria in the Burdle decision. Therefore, the land has a lawful use as a caravan site, albeit currently used for ancillary purposes to a caravan site. There are no conditions on the land limiting the number of caravans that can be stationed on it.
- 7.2 The definition of a caravan site is set out in section 29 of the Caravan Sites and Control of Development Act 1960 as meaning land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed. In support of the application a number of appeal decisions and court cases were provided.

- 7.3 The proposal seeks confirmation from the Council that it would be lawful to station 112 static caravans for occupation (other than warden accommodation) between 1 March and 31 December in any calendar year on the application site. This would increase the number of caravans on the land from 443 to 555. In percentage terms this would be an increase of 25% in the number of caravans on the planning unit. In support of the application appeal decisions have been included, which found that an increase in the number of caravans from a doubling to 600% did not result in a material change of use. That said, the scale of the increase in number of caravans within these decisions was considerably less than the current proposal ie an increase from 6 to 12 and an increase from 1 caravan to 6, as opposed to 443 to 555.
- 7.4 The proposed increase in the siting of caravans would intensify the use of the land. However, the question before the Local Planning Authority (LPA) is does the intensification change the definable character of the use of the land as a caravan site such that there will be a material change of use? The mere intensification is not sufficient if it falls short of materially changing the definable character of the use of the land. Whilst there would be an intensification of the use of the land, its use would still be that of a caravan site, and if the application is granted it would not change to another definable use; it would still be a caravan site.
- 7.5 As to the impacts on the locality by the proposal, which would include an increase in traffic, noise and disturbance to local residents, the following extract from the judgment in *Hertfordshire v SoS* [2012] at paragraph 42 is relevant:
- "The relevance of impacts comes in evidencing a material change of use of the land, a definable change in its character, but one which is defined by a material change in use, not by a change however severe or minimal, in the effects of a use."*
- 7.6 Therefore, the off-site side effects of the proposal do not change the defined use of the land as a caravan site for holiday use and, as the occupation of the caravans would take place during the same months of the year as the existing caravans, this use would not amount to a material change of use.

8 Conclusion

- 8.1 The granting of the Lawful Development Certificate under reference APP/22/01096 established the use of the land as a caravan site. The intensification of this use would not change the defined character of the use of the land as a caravan site for occupation between 1 March and 31 December in any calendar year (other than warden accommodation). Therefore, a Lawful Development Certificate can be issued in the terms requested.
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9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/23/00769

FIRST SCHEDULE:

This certificate relates to the following development:

The stationing of 112No. static caravans for occupation (other than warden accommodation) between 1 March and 31 December in any calendar year as described in the written particulars, plans and other documents submitted with your application received on 08 September 2023.

SECOND SCHEDULE:

This certificate relates to land at Land adj to Westar Hayling Island Holiday Park, Manor Road, Hayling Island, PO11 0QS as shown edged red on the submitted Location Plan received 08 September 2023.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Secretary of State if you are aggrieved by the Council's decision.