

Hayling Island Holiday Park

Application under Section 191 of the Town and Country
Planning Act 1990 for a Certificate of Lawfulness of Existing Use
or Development at Hayling Island Holiday Park, Hayling Island,
PO11 0QS

Client: Hayling Island Holiday Park Limited



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Version: Final Version 1
Issued: 10th November 2022
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LPL Project No: 1001

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1. Introduction

- 1.1. Laister Planning Limited has been instructed by our client, Hayling Island Holiday Park Limited (the Applicant), to prepare an application under Section 191 of the Town and Country Planning Act 1990 (the TCPA, as amended), for a Certificate of Lawfulness of Existing Use or Development (CLEUD) for *'Use of land for recreation purposes and parking ancillary to Caravan Site'*, at Hayling Island Holiday Park, Hayling Island, PO11 0QS.
- 1.2. In accordance with national and local validation requirements, the application is supported by the following information:
 - This Supporting Statement;
 - Application Forms, duly completed;
 - Site Location Plan (drawing reference: DWG REF 8762 – G); and
 - Planning Application Fee Paid Under a separate Cover (£462).

Site and Surroundings

- 1.3. Hayling Island Holiday Park contains the application site and large area of land in use as a caravan site. The wider site contains mature trees and hedges particularly along the perimeter, providing the site with a palpable defining border. The caravan site presently occupies a mix of touring caravans and static caravans, and an amenity building.
- 1.4. The caravan site is located approximately 500m north of West Town, and is accessed off Manor Road which feeds into the A3023 to the surrounding settlements and off the island. West Town provides access to a range of services, facilities and amenities including shops, eating and drinking establishments, sport and recreation areas, medical and dental practices, pharmacy, and education facilities.
- 1.5. The application site is adjacent to the existing Hayling Island Holiday Park, on the eastern and southern side forming an irregular shape, and measuring approximately 36.77 acres. The application area is defined as the area contained within the red line on the accompanying Site Location Plan, enclosed at Appendix 1. It falls into the same ownership as the Holiday Park
- 1.6. A Public Right of Way (PRoW) cuts through the caravan site and can be found at the north and south of the developed area. 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 (Historic England reference 1303499) adjacent the site to the north west; Newton House Hotel (Historic England reference 1340209) adjacent the site to the south west; Farm Cottage and Rook Farmhouse (Historic England reference 1390663) adjacent the site to the south east; and, the Grade II* Church of

St Mary (Historic England reference 1091616) adjacent to the site at the north east. There are no other historic or natural assets at the site.

- 1.7. The Solent Maritime Special Area of Conservation can be found in the water at the south of the island, at a distance of approximately 1km. The Chichester Harbour AONB can be found at a distance of approximately 600m to the east. The Chichester and Langstone Harbour Ramsar Site, SSSI and Special Protection area can be found at a distance of 700m to the west. The Hayling Billy Local Nature Reserve is approximately 1.37km to the north.
- 1.8. According to the Environment Agency flood risk map, the site is fully situated within Flood Zone 1.

2. Definitions and Guidance

Purpose of an Application Under Section 191 of the Planning Act

- 2.1. Planning Practice Guidance (PPG) on Lawful Development Certificates (published 6th March 2014) explains the process for obtaining a Certificate of Lawfulness of Existing Use or Development (CLEUD). The PPG advises (Paragraph: 001 Reference ID: 17c-001-20140306) that:

'A local planning authority can grant a certificate confirming that: (a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990'

- 2.2. The PPG advises (Paragraph: 003 Reference ID: 17c-003-20140306) that:

'lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required'.

Burden of Proof

- 2.3. Paragraph: 006 Reference ID: 17c-006-20140306 of the above PPG advises that the applicant is responsible for providing sufficient information to support an application and states:

'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'

- 2.4. Whilst the burden of proof is on the applicant, the courts have held that the relevant test of evidence is on *'the balance of probability'* and not the stricter, criminal burden of proof, of *'beyond reasonable doubt'*. A Local Planning Authority (LPA) should not refuse an LDC application because the applicant has failed to provide proof beyond reasonable doubt.
- 2.5. The Court has held (see *F.w. Gabbittas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by *'independent'* evidence in order to be accepted.

3. Planning History

- 3.1. The Council's online public access facility provides information on planning history dating back to approximately 1995. A brief review illuminated that many important documents were missing, and the site clearly had a history prior to the 1990's. A technical officer has now provided the full planning history and the relevant decision notices and location plans. The site's first recorded planning permission was granted in 1950.

Permission Ref. HWU/01238

- 3.2. In 1950, the "Extension of the existing camping site" was granted under reference HWU/01238. With the description of development setting out the proposal was for an extension to an existing site, it strongly suggests that other adjacent land was already in use as a camping site. This is confirmed by the accompanying location plan, shown below. The location plan illustrates the application site within the red line, and the remainder of the land within the same ownership within the blue line. The land within the blue line is identified as the "Existing Site".

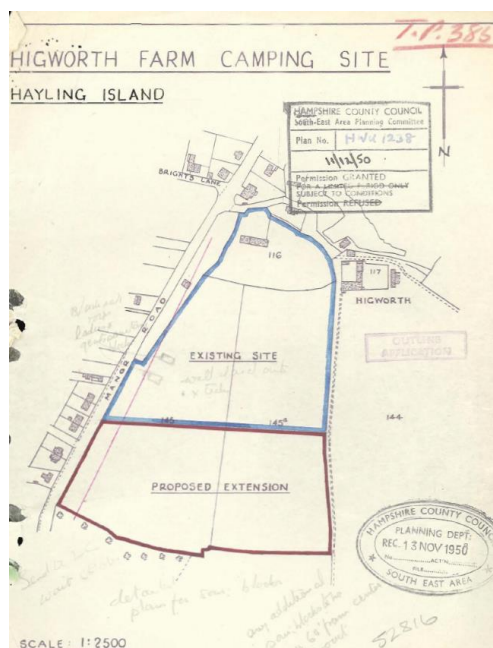


Figure 1 HWU/01238 Location Plan Extract

- 3.3. This permission, which seems to have been in outline, was subject to a total of 4no. planning conditions.

Permission Ref. 13218

- 3.4. In 1961, permission reference 13218 was granted enabling "The use of land as a games and recreation area". The location plan, shown below, demonstrates the play area in a red line.

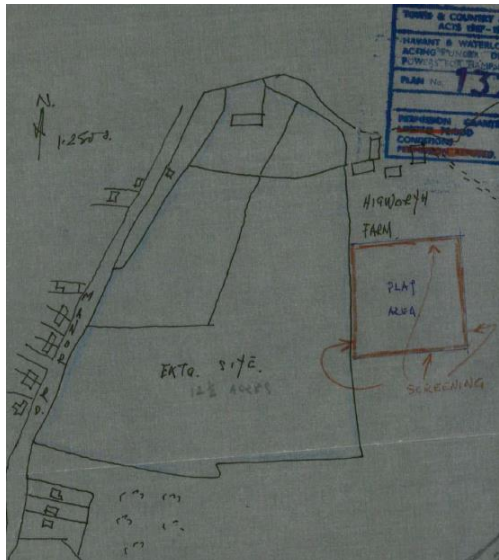


Figure 2 13218 Location Plan Extract

- 3.5. The permission is accompanied by a total of two planning conditions.

Permission Ref. 15380/13

- 3.6. The decision notice for application reference 15380/13 reveals it was granted in 1980 for *"Use of land as northern extension to Highworth Caravan Park (as amended by supplementary drawing received on 11th March 1980)"*. A location plan for this permission has not been provided. The permission is accompanied by a total of 7no. planning conditions.
- 3.7. Without a location plan it is impossible to be certain what land benefits from this permission. However, the description suggests it is a parcel of land at the north of the site, and in the next planning permission (1989) we will see a new section at the northeast. It is possible the land in the aerial snapshot below is the land benefitting from this permission although it is not relevant for this application.

Permission Ref. 89/52816/1

- 3.8. In 1989, permission reference 89/52816/1 was granted enabling *"Siting of mobile home for year round occupation"*. The location plan, shown below, encompasses the present day developed area within the large red line area.

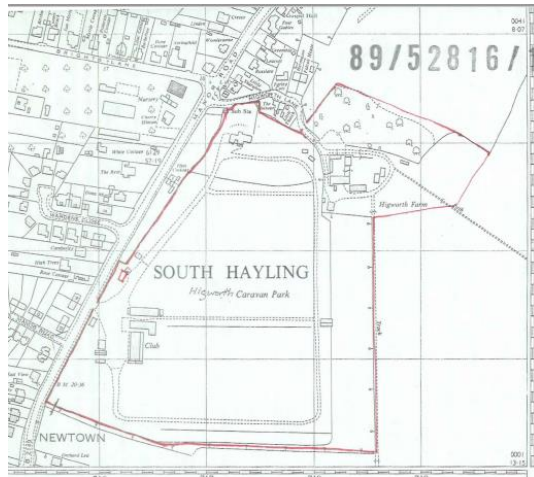


Figure 3 89/52816/1 Location Plan Extract

- 3.9. There is a second red line area shaped like a rectangle at the centre western area of the large red line. It appears this rectangular area is the land meant to benefit from this permission, as the description and accompanying condition 2 appear to refer to a single mobile home, and not many.
- 3.10. The permission is accompanied by a total of two planning conditions and it appears the purpose of this application was to enable the use of a mobile home (caravan) for a warden/manager for year-round residential use.

Permission Ref. 95/52816/4

- 3.11. In 2001, permission reference 95/52816/4 was granted enabling “Use of land for additional 2 months per annum November and December so allowing use of caravan park for 10 months instead of 8 months”.
- 3.12. The permission’s location plan, shown below, illustrates the developed area within the red line, and the application site subject to this application within the blue line.

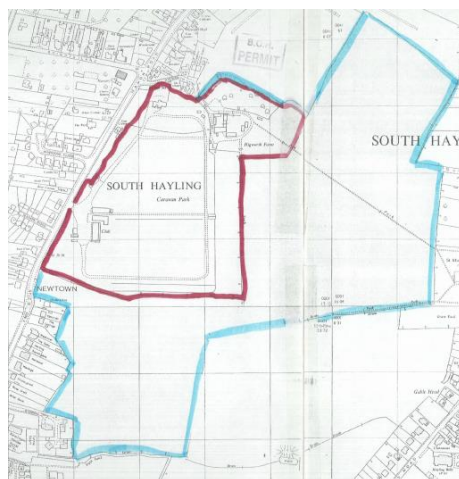


Figure 4 95/52816/4 Location Plan Extract

- 3.13. The permission is accompanied by one planning condition. The condition states:

"No caravan except the warden accommodation shall be occupied at any time during the months of January and February in any calendar year."

Permission Ref. 07/52816/011

- 3.14. In 2007, permission reference 07/52816/011 was granted enabling "Change of use of recreation area to accommodate 22 static caravans. New recreation area". A total of 8no. planning conditions accompanied the permission granted on the land shown below:



Figure 5 07/52816/011 Location Plan Extract

Miscellaneous

- 3.15. The Council have sent through other planning history for the site that does not bear any relevance to this application. It is set out below.

Reference	Description	Decision	Date
08/52816/012	Resurface caravan display area and new footpath	Approved	25/02/2008
94/52816/3	New outdoor swimming pool and pump room	Approved	02/12/1994
89/52816	Erection of 1.75m high brick wall fronting Manor Road, 20m in length adjacent to access and warden's house (as supplemented by letter dated 16 th May 1989)	Approved	09/06/1989
15380/20	Replacement of hedge of <u>closeboard</u> fence 6' high x 106	Approved	27/07/1984
15380/18	Extension to existing club premises	Approved	17/03/1983
16516/6	Extension to club room and bar at <u>Highworth Farm Caravan Site</u>	Approved	25/08/1969
16516/3	The erection of a clubroom at <u>Highworth Farm Caravan Site</u>	Approved	23/02/1968
16516/2	The erection of a store at <u>Highworth Farm Caravan Site</u>	Approved	05/05/1966
HWU/04816/2	The conversion of existing building into fish and chip shop	Approved	26/05/1960
HWU/04816/1	The erection of a clubhouse	Approved	07/01/1960
HWU/02838	The retention of a kiosk for a limited period only terminating on the 31 st day of July 1964.	Approved	19/08/1959
HWU/04816	The erection of a <u>self service</u> shop, store, and office	Approved	12/01/1957

Summary

- 3.16. In summary, these planning permissions set out the extant lawful use of the existing caravan site is a caravan site and demonstrate the application area is within the same overall ownership area, and there are no planning consents for the application area.

4. Supporting Evidence

- 4.1. In order to establish the lawfulness of the existing use of the land for purposes ancillary to the caravan site it is necessary to provide evidence, that on the balance of probability, this use has been in operation for at least 10 years.
- 4.2. The evidence submitted with this application demonstrates the application site has been used for purposes ancillary to the caravan site on a continuous and uninterrupted basis for over ten years. Aerial imagery demonstrates the use of the site as described since at least 2004, and Statutory Declarations corroborates this for at least the last 40 years.

Statutory Declaration

- 4.3. The applicant includes with this application a total of 29no Statutory Declarations confirming the use of the land as described. Of those 29no Statutory Declarations, a total of 11no are provided with at least 10 years of knowledge of the use of the site. The remaining 19no Statutory Declarations do not cover the last full 10 years, or in other words, their knowledge of the site begins in 2012 or later. While these declarations do not provide evidence for the last 10 years, they do corroborate the declarations of those that do cover at least the last 10 years. A Table of Evidence is provided which is simply a matrix showing the years in which evidence is provided by each person's statutory declaration. It is enclosed at Appendix 2.
- 4.4. Statutory Declarations covering a period of at least 10 years are provided by the following people, with summaries of their declarations provided below:
 - Charlie Rolfe (Bar Supervisor)
 - Diane Doyle (Resident)
 - Emily-Jane Hunt (Resident)
 - Janice Smith (Resident)
 - Julie Devereux (Resident)
 - Kim Bishop (Assistant Accommodation Manager)
 - Kim Tombs (Admin Manager)
 - Mary Dixon (Resident)
 - Neil Devereux (Resident)
 - Philip Hubbard (Personal Knowledge)
 - Stephanie Hubbard (Personal Knowledge)
- 4.5. Each declaration is accompanied by, and refers to, a plan illustrating the application area at Exhibit 1. This land is also identified in the Declarations as 'KAEI'. The declarations are enclosed at Appendix 3.

Charlie Rolfe

- 4.6. Employed as a Bar Supervisor at Hayling Island Park for over 13 years. Charlie Rolfe declares the application area has been used as a recreational area for the 'Park' (which is the Hayling Island Holiday Park) for informal amenities, games and activities by residents and occupiers of the Park. These activities include using the land for dog walking purposes and as an exercise area, and there is a football pitch on the Recreational Area which assists with the recreational use referred to.
- 4.7. Charlie Rolfe confirms that the recreational area has been used throughout his whole period of occupation at the park, defined again as for *"thirteen years up to the present day"*.

Diane Doyle

- 4.8. Diane Doyle confirms that they have been staying at the site for 15 years. Declaring to the application area, Diane sets out the land has been used as a recreational area by themselves, their family and other occupiers of the homes at Hayling Island Park. Referring to application area as the 'Recreational Area', it is declared that the activities enjoyed include using it for dog walking purposes and also as an exercise area. Additionally, there is football pitch which assists with the recreational use referred to.

Emily-Jane Hunt

- 4.9. Staying at the site for the last 16 years, Emily-Jane Hunt declares that the application area has been used as a recreational area by themselves, their family and the occupiers of the homes on the Hayling Island Park. The land has been used like this throughout Emily-Jane Hunt's whole period of occupation.
- 4.10. Emily-Jane Hunt declares that the application area has been used for dog walking purposes and as a recreational and exercise area by the occupiers of the park, and sets out there is a football pitch on the land which is used as part of the recreational use as described.

Janice Smith

- 4.11. It is declared by Janice Smith that they have been staying at Hayling Island Park for 20 years. Throughout all of this time the application area has been used for dog walking purposes and as a recreational and exercise area by the occupiers of the Park. It is declared that there is a football pitch on the land and this has been used as part of the recreational use.

Julie and Neil Devereux

- 4.12. Julie and Neil Devereux provide near-identical declarations confirming they have been staying at Hayling Island Park for 12 years. Since they have been occupying the park, the application area has been used as a recreational area, it is declared. The activities enjoyed on the recreational area include dog walking, exercise area and the use of a football pitch for recreational purposes.

Kim Bishop

- 4.13. Kim Bishop declares that they are employed as an Assistant Accommodation Manager at Hayling Island Park and has been employed by the park owner for over 22 years.
- 4.14. Kim Bishop confirms that the application site has been used as a recreational area for informal amenities, games and activities by residents and occupiers of the Hayling Island Park. The activities on the land include using it for dog walking purposes and an exercise area. There is, it is declared, also a football pitch which assists with the recreational use.

Kim Tombs

- 4.15. It is declared by Kim Tombs that they have worked as an Administration Manager for over 26 years at Hayling Island Park. Throughout this time, the application site has been used as a recreational area for activities including dog walking purposes and for exercises. There is also a football pitch which assists in providing the recreational use.

Mary Dixon

- 4.16. Mary Dixon has been staying at Hayling Island Park for 20 years. Like the others who have been staying at the park, Mary declares that the application area has been used as a recreational area by themselves, their family and the occupiers of the park. This has continued throughout Mary's whole period of occupation at the park. The land is used for recreational purposes including dog walking and exercise. Additionally there is a football pitch which is used as part of the recreational use.

Philip and Stephanie Hubbard

- 4.17. Philip and Stephanie Hubbard provide near-identical statutory declarations confirming that they have been staying at the site for 2 years, but have known the site for the past 40 years. They first occupied the site in 1982 and confirm that the land has been used for recreational purposes since then. Activities enjoyed on the land including using it for dog walking purposes and also as an exercise area. In addition, they both declare that there is a football pitch which assists with the recreational use.

Others

- 4.18. Statutory declarations are also provided by the following occupiers of the site for a period of less than 10 years – these people corroborate the recreational use of the land which is declared by those people described above:
- David Hickmott
 - Dean Butteriss
 - Dennis Codd
 - Emma Foster
 - Geoff Gardner
 - Graham Perry
 - John Howe

- Karen Landrigan
- Leanne Oliver-Pulford
- Linda Atkins
- Martin Atkinsons
- Mary Morgan
- Neil Atkins
- Nichola Atkinson
- Rob Foster
- Spencer Chamberlain
- Trevor Stewart Matthews
- Vicky Jane Holloway

Summary of Declarations

- 4.19. On their close and long knowledge of the site, 11no people have provided Statutory Declarations confirming that the application area (recorded as Exhibit 1 in the Statutory Declarations) has been used as an area of ancillary recreation land for informal dog walking and general leisure including exercise. These purposes are ancillary to the caravan site. Those Declarations confirm the land has been used for these purposes for at least the last 10 years, and this use has not ceased.

Historic Aerial Photographs

- 4.20. Appendix 3 provides aerial photographs of the site for the years 2004, 2005, 2007, 2011, 2015, 2019 and 2022. The photographs show that, since at least 2004 the site has always remained open to residents of the Hayling Island Holiday Park. The images illustrate that the site has always been maintained, and on the balance of probability, has been used for at least the last 10 years.
- 4.21. The 2004 aerial photograph appears to show an image of the site through cloud cover. Nevertheless, the image is of suitable quality for key features to be visible. The image illustrates the application site is largely open, comprising open space, and the application site is surrounded by the trees, hedges and the developed caravan site. The land is well maintained, with a strong definition between the open space and the neighbouring land. Access to the site is very clearly taken between two caravans at the south west of the developed caravan site, and also from the Public Right of Way. Scarring within the application area extends from these points of access, demonstrating consistent use and suggesting walking ways have been cut into the maintained grass. The apparent walkways extend around the application site, close to its perimeter, but also penetrate through the land likely illustrating that people are also using the site in its entirety.

- 4.22. The 2005 and 2007 aerial photographs reveal much the same of the preceding image but without the cloud cover meaning the boundary, maintenance, walkways and use apparent use of the land is much more visible.
- 4.23. The 2011 image builds on those above, and evidence of a play area has emerged. It appears to be a football pitch, located on the middle-eastern parcel of land, complete with goalposts.
- 4.24. The 2015 photograph again builds on the previous images, reinforcing the well maintained land with managed boundary treatment, walking paths and play areas, one of which incorporates a pair of football goalposts.
- 4.25. In the 2019 image the goalposts remain, as do the walkways, neat boundary treatment and visible maintenance of the land. The 2022 image continues to reveal these themes except the goal posts appear to have been removed, perhaps for maintenance.
- 4.26. Throughout all of these images over an 18 year period, strong and maintained boundaries are established, walkways are provided, recreation space is very visible and access is maintained into these areas from the developed caravan site. The aerial photographs suggest that the statutory declarations are correct on the balance of probabilities.

5. Conclusion

- 5.1. Laister Planning Limited has been instructed by Hayling Island Holiday Park Limited (the Applicant) to hereby submit an application under section 191 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness of Existing Use or Development (CLEUD) for '*Use of land for recreation purposes ancillary to Caravan Site*'. The site provides an ancillary recreation area to Hayling Island Holiday Park, Hayling Island, PO11 0QS.
- 5.2. In this statement we have reviewed the purpose an application under Section 191 of the Planning Act. Within such an application, the applicant should provide evidence that, on the balance of probability, the use has taken place for a period exceeding 10 years.
- 5.3. The application site comprises an ancillary recreation area at the east and south of the existing caravan site. The land is largely laid to managed grass and bounded by hedges and trees. The site is fully accessible to guests of the caravan park at the south, and there is no impermeable boundary between the application site and the caravan park.
- 5.4. A search of the planning history of the site reveals that the application area does not benefit from any extent planning permission. The existing developed caravan site benefits a planning history confirming its use as a caravan site. The whole site is part of the same single ownership. No record of planning permission for the use taking place on the site, or any other use, has been found.
- 5.5. The applicant has provided evidence accompanying this application which demonstrates on the balance of probability, the existing ancillary use has taken place for at least the last 10 years, as evidenced by aerial photographs and many Statutory Declarations. The Statutory Declarations are provided by staff and occupiers of the Hayling Island Park, who have good knowledge of the site dating back over at least the last 10 years. Other Statutory Declarations have been provided which do not have 10 years of knowledge of the site, however they do corroborate the theme that the land is used as an ancillary recreation area.
- 5.6. Aerial photographs of the site have been extracted from Google Earth and provided in support of this submission. The photographs of the site show ancillary recreation uses taking place on the site from at least 2001 to the present day.
- 5.7. From this evidence it is clear that, on the balance of probabilities, the application site has been used for more than 10 years for the purposes described ancillary to the caravan site. No other use appears to have taken place during this period. The current Government guidance states that if a local planning authority has no evidence itself, nor any from others to contradict or otherwise make the applicant's version of events less than probable, then there is no good reason to refuse the application. Sound evidence is provided with this application and therefore, a Lawful Development Certificate can be issued for the use of land, namely for purposes ancillary to the caravan site, thus rendering the current use immune from enforcement action.