



TOWN AND COUNTRY PLANNING ACT 1990: Section 192
Town and Country Planning (Development Management Procedure)(England)
Order 2015: Article 39

REFUSAL OF APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR A
PROPOSED USE OR DEVELOPMENT

TO: Royale Parks Ltd

OF: c/o E J Planning Ltd, P O Box 310, Malvern, Worcestershire WR14 9FF

In pursuance of their powers under the above-mentioned Act, Winchester City Council ("the Council") as local planning authority **HEREBY REFUSE** your application for a Lawful Development Certificate for a Proposed Use (use of land for the stationing of holiday caravans for twelve months of the year together with a maximum of 42 caravans for the purposes of residential occupation) under Section 192 of the Act, dated the 3 January 2017 in respect of the land described in that application, namely Wickham Court (formerly South Hants Country Club), Blackhouse Lane, North Boarhunt, Hampshire PO17 6JS ("the Land").

The grounds for the Council's decision are as follows:

1. On 17 September 2014, the Council issued a Certificate under s191 of the Town and Country Planning Act 1990 whereby it was certified that the lawful use of the Land was for the stationing of holiday caravans for twelve months of the year together with a maximum of 18 caravans for residential occupation.
2. On 8 June 2016, the Council refused an application for a Lawful Development Certificate for a Proposed Use, namely, the use of land for the stationing of holiday caravans for twelve months of the year together with a maximum of 30 caravans for the purposes of residential occupation throughout the year. The subsequent appeal was allowed by a decision letter dated 12 December 2016 and a Certificate of Lawful Use or Development was issued which permitted the use of the land for stationing holiday caravans together with 30 caravans for residential occupation.
3. On 11 January 2017, the Council refused an application for a Lawful Development Certificate for a Proposed Use, namely the use of land for the stationing of holiday caravans for twelve months of the year together with a maximum of 100 caravans for the purposes of residential occupation throughout the year. However, as with previous Certificates (referred to above), this Certificate was granted to the extent that the proposed use related to the use of the application site for holiday caravans for twelve months of the year.
4. Therefore the current lawful use of the Land is for the stationing of holiday caravans for twelve months of the year together with a maximum of 30 caravans for residential

occupation.

5. The proposed use requires planning permission because an increase in the number of caravans for residential occupation to 42 from the maximum number currently permitted on site, represents a material change in the use of the Land, the differences between residential and holiday occupation being a matter of fact and degree to be determined on a case by case basis (*Moore v Secretary of State for Communities and Local Government & Suffolk District Council* [2012] EWCA Civ, 1202).

The following matters have been considered in reaching a decision as to whether a material change of use has taken place:

Material change of use- on-site considerations:

- a. The proposal to increase the number of residential caravans from a maximum of 30 to a maximum of 42 (already an increase from the original 18) represents an increase of 40 % in the number of residential caravans which is a material increase in the number of residential caravans on the Land.
- b. Caravan sites operate under numerous different models (as demonstrated over the history of this site) with a variety of types of caravan and patterns of activity. In general, holiday caravans are less likely to have a curtilage, to need external storage (sheds/buildings), fencing, decking, washing lines and similar. A use for residential caravans will usually have all of the above and consequently a materially different visual impact. In considering whether there are material planning differences between a holiday caravan site and, a predominantly residential site, the particular business model which an applicant intends to operate is not a material consideration.

The s191/192 process does not allow the Council to specify (by condition or otherwise) how a use is operated. The applicant has indicated that all of the caravans on site, regardless of whether they are used for holiday or residential purposes, will have a similar appearance (i.e. that of static or park home style caravans with curtilage) and will have a minimum age for occupants. There is a variety of types and tenures of caravan on site and it is clear which are being used for holiday purposes – as it was at the time of a previous appeal Inspector's visit in 2014 (para 31 of his Decision Letter dated 4 March 2014) when the Inspector stated that there were considerable differences between the units at the western end of the site (which looked like permanent homes) and others more centrally positioned which were apparently empty.

The appeal inspector in the appeal in December 2016, accepted that the appearance of the site remained similar to that described in February 2014 (para 13 of her decision letter).

- c. Residential caravans are occupied all year round and, whilst there is no restriction on the time of year when holiday caravans on this site can be occupied, it is unlikely that genuine holiday caravans will be occupied all year round – or that they will be occupied every day of the week. A holiday use has peaks and troughs whereas a residential use has a steady level of activity throughout the year. This will have a material impact on the intensity of use and appearance of the site.
- d. In allowing an increase in the number of residential caravans, the previous

Inspector placed significant weight on the 2014 Certificate stating at para 19 of her letter that the Certificate *allowed residential caravans anywhere on the site (subject to a limit on numbers) and also permitted the year round use of holiday caravans on all parts of the site.* However, the only change introduced by the 2014 Certificate was that the 18 residential caravans which could previously only be sited on one central area of the site could be sited on any part of the site.

The 2014 Appeal Inspector confirmed in paragraph 25 of his decision letter that the lawful use of most of the site was as a holiday caravan site with no restrictions – as it had been for many years - the exception being that part of the land, then known as the Red Land- on which a maximum of 18 residential caravans could be sited.

Material change of use -off-site considerations:

- e. the application site is large, akin to a small village. An increase in the number of residential dwellings on the application site with demands from permanent residents that are different to those of holidaymakers will impact on the limited facilities and infrastructure in the village of North Boarhunt in particular, and the locality more generally. These issues, whilst related to sustainability lend support to the argument that the use of the site for holiday caravans is materially different to a use as a site for residential caravans.

Note: This Certificate is granted to the extent that the proposed use relates to the use of the application site for holiday caravans for twelve months of the year as certified by the Certificate referred to in paragraph 1 above.

Signed: 
Head of Legal and Democratic Services
On behalf of Winchester City Council

Date: 2 March 2017

IT IS IMPORTANT THAT YOU READ THE NOTES OVERLEAF

NOTES:

1. If you are aggrieved by the decision of the Council to refuse an application for a Certificate under section 192 of the Town and Country Planning Act 1990 (as amended) or to refuse it in part you may appeal to the Secretary of State under section 195 of the Act (as amended).
2. You can appeal online at <https://www.gov.uk/appeal-planning-inspectorate> or by post to The Planning Inspectorate, Room 3/13, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN sending copies of all relevant documents, including the application, the notice of decision and all plans, drawings and correspondence must be supplied to the Planning Inspectorate.
3. You are advised to consult the brief official guide to applications and appeals, published by the Planning Inspectorate <https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

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