



PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY DELEGATED DECISION REPORT

Application Ref	NP/17/0685/CLE		
Case Officer	Caroline Bowen		
Applicant	Messrs P & B Rees		
Agent	Mr A Vaughan-Harries, Hayston Development & Planning		
Proposal	Certificate of lawfulness for existing use - siting of 1 additional mobile home, use of southern field for the seasonal siting of tents, touring caravans and motor homes and existing ancillary operational development.		
Site Location	Tretio Caravan & Camping Park, St Davids, Haverfordwest, Pembrokeshire, SA62 6DE		
Grid Ref	SM78742911		
Date Valid	17-Nov-2017	Target Date	11-Jan-2018

Constraints

Special Area of Conservation - within 500m
Safeguarding Zone
Rights of Way Inland - within 50m
Hazardous Zones
Recreation Character Areas
Landscape Character Assessment

Officer's Appraisal

Background & Description

The applicant has applied to the Authority for a Lawful Development Certificate for the stationing of an additional static caravan at the existing to regularise the use of land at Tretio Caravan Park, and to regularise the use of land at the caravan park as a campsite for tents, tourers and motorhomes. It is submitted that the fields to the south east have been used seasonally between Easter and the 31st October - for a period in excess of 10 years from the date of application - for the siting of 47 pitches.

For a certificate of lawfulness to be granted in respect of a material change use, an applicant must demonstrate that the use has been continuous and without interruption for a period of at least 10 years. The applicant's evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (Annex 8, Welsh Office Circular 24/97).

Paragraphs 8.16 – 8.18 of Annex 8 of the same circular provide further guidance in respect of certificate applications for campsites. The guidance

advises that precision in a certificate description is vital and that it should include the precise area of land. Paragraph 8.17 states that *"the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously. This is particularly important for uses which do not fall within any use class (that is a 'sui generis' use). So for example, a LDC for a caravan site might typically include the number and type or size of caravan found to be lawful at the application date and, where the use is seasonal, the calendar dates on which the use then took place"*.

Planning History

Permission was originally granted in 1969 by Haverfordwest Rural District Council for a holiday caravan site for no more than 30 caravans. In 1970, further permission was granted for the layout of land as a caravan park for 30 caravans, which was subject to landscaping conditions. In 1978, Preseli District Council granted consent for 10 additional touring caravan pitches. In 1986, an appeal was dismissed following the refusal of permission for the winter storage of two caravans on the site.

In 1992, Preseli Pembrokeshire District Council granted permission to extend the period of operation of the caravan site and to retain 30 caravans on their pitches during the closed season. This was subject to a condition that the site shall not be used for the stationing of touring caravans, nor shall the static caravans be used for human habitation during the period 10th January to 28th February in any one year.

In 1993, a pitch and putt course was permitted for use by visitors to the caravan site, and a workshop building to the far southern boundary of the site. An application for a managers dwelling was refused, however the Council advised that one solution would be to look at the possible permanent occupation of one of the existing static caravans on site.

An application made in 2004 for a caretakers cottage was refused (NP/04/662), and in 2006, an application for the concrete slab, brick skirt and associated works were refused (NP/06/662)
Following investigation by the Authority, an application made in 2016 under NP/16/0140/CLE regularised the use of the managers caravan.

Evidence submitted

In support of the application, the applicant submitted the following evidence of use:

- A planning report detailing the history of the use of the site.
- A letter from the agent detailing the ownership history.
- Statements from eight individuals attesting to the additional caravan and to the use of the land for tents, tourers and motorhomes.

Consideration of the Evidence

Planning legislation

At Section 55(1) of the Town and Country Planning Act 1990 (TCPA), the meaning of 'development' is set out. This includes the making of any material change in the use of any buildings or other land. Section 57(1) says that all such 'development' requires planning permission.

The Town and Country Planning (General Permitted Development) Order 1995 (as amended) effectively grants planning permission for certain types of 'development'. Part 4 of Schedule 2 is concerned with temporary buildings and uses and states under Class B that the use of any land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any moveable structure for the purposes of the permitted use is 'permitted development'.

As such, the use of land for tent camping for up to 28 days a year does not require planning permission to be sought via a planning application. Conversely, if the frequency and length of the use goes beyond such a period, a specific planning permission is needed for which an application needs to be made as without it, any such use is unauthorised.

Section 191(1) of the TCPA says that if someone wants to ascertain whether (a) any existing use is lawful or (b) any operations are lawful, they may make an application to the local planning authority (LPA). The application that has been submitted is such an application. Sub-section (2) specifies that such uses and operations are lawful if at any time (a) no enforcement action may then be taken in respect of them because, for example, the time for enforcement action has expired. The relevant time periods are set out within Section 171B of the TCPA, these being 4 years for operations, etc. and 10 years for any other breach (except residential uses).

Section 191(4) says that if the LPA is provided with information that satisfies the lawfulness of the use or operations described in the application (or such a description as modified or substituted by the LPA), at the time of the application, it shall issue a certificate to that effect. Sub-section (5) says that any such certificate shall (a) specify the land to which it relates, (b) describe the use, operations or other matter in question, (c) give the reasons for determining the use, operations or other matter to be lawful and (d) specify the date of the application for the certificate.

Further detailed provisions relating to the process of lawful development certificates (LDCs) are set out at Article 28 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) and a template decision is included at Schedule 7.

Other legislation

Current non-planning control over tents relies on the Public Health Act 1936 under which licensing is required when camping occurs on more than 42 consecutive days or more than 60 days in any one year. Clearly, such periods go beyond that allowed in planning legislation (unless a specific planning permission has been granted). Unlike the caravan site licensing system, there is no need to obtain planning permission before a tented camping licence is granted.

Guidance

Welsh Office Circular 24/97 (Enforcing Planning Control: Legislative Provisions and Procedural Requirements) says at paragraph 8.11 of Annex 8 in relation to LDCs that the LPA must address the facts of the case and relevant planning law in determining whether the specified matter is lawful or not. At paragraph 8.12, it explains that the onus of proof lies firmly with the applicant in such matters and at 8.15, that the relevant test is the 'balance of probability' as opposed to 'beyond reasonable doubt'.

In addition, an applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted and if the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse an application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate.

Furthermore, the LPA should proceed on the basis that neither the identity of the applicant nor the planning merits of the case are relevant to the consideration of the purely legal issues involved in such matters.

Appraisal

The evidence submitted with the application is essentially contained within the accompanying Planning Report. The statements support the submission that the seasonal camping has carried on uninterrupted for 10 years, and that the additional static caravan has been in existence for the required period. Officers have checked the Authority's aerial photograph records which confirm both the additional static caravan and the use of the land for camping, therefore - on balance of the facts surrounding this case, and without any evidence to the contrary - it is considered that the statements obtained by the applicant are in themselves sufficient to prove the usage of the site over the requisite 10-year period on the balance of probability.

Conclusion.

In summary it can be concluded that sufficient evidence has been provided to prove, on the balance of probability, the use claimed is lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended) and a certificate shall be issued subject to the level of usage and seasonal use.

Recommendation

The Pembrokeshire Coast National Park Authority as local planning authority hereby certify that on the 11th March 2016, the use/operations described in the First Schedule to this Certificate in respect of the land specified in the Second Schedule to this certificate and edged red on the plan attached to this Certificate, were lawful within the meaning of Section 191 of the Town and Country Planning Act 1990, for the following reason(s):

1. The evidence submitted in support of the application is considered sufficient to demonstrate that, on the balance of probabilities, 1) the land specified in the application has been used for seasonal camping purposes for up to 47 tents, tourers and motorhomes between Easter and the end of October each year for the requisite ten year period and 2) the static caravan for holiday use has been on site for the requisite 10 years. As such, it is considered that both the use and operations as specified are lawful.

First Schedule: 1) Campsite providing up to 47 tent, tourer and motorhome pitches for use on a seasonal basis between Easter and 31st October each year, and 2) one static caravan

Second Schedule: Tretio Caravan Site, St Davids, Pembrokeshire SA62 6DE

Signed (Case Officer):
Caroline Bowen

CBowen

Date: 9/1/18

Checked by:

Date: _____

**Signed (National Park
Authorised Officer):**

MArley

Date: 9/1/18

