Our ref: PPS1175

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Date: 08th June 2021

Dear Sir/Madam,

Town and Country Planning Act 1990 & the Town and Country Planning (Development Management Procedure) (England) Order 2015

Hollybush Farm Caravan Park, Oak Lane, Minster-on-Sea, ME12 3QR

Application for a Certificate of Lawful Existing Use or Development for Use of the Land Edged Red as a Caravan Site.

On behalf of our client, Hollybush Farm Caravan Park ('the Applicant'), please find enclosed an application under Section 191 of the Town and Country Planning (T&CP) Act 1990, for a Lawful Development Certificate for Existing Use or Development (CLEUD) for the use of land at Hollybush Farm Caravan Park, Oak Lane, Minster-on-Sea, ME12 3QR, as a caravan site.

I enclose for your attention the following information submitted in support of the application:

- This Covering Letter;
- Application Form (submitted via the planning portal under reference: PP-09752447);
- Site Location Plan Reference 1175-0010-02;
- Statutory Declaration Confirming Use of Land by:
  - Mr R Fraser;
  - Mr T Carter;
  - Mr D Brunt;
- Aerial Photographs, Reference 1175-0006-02-R;
- Counsel Opinion; and
- Application Fee Paid Under a Separate Cover (£462).

This application seeks to establish the lawful use of the land as a caravan site with ancillary recreational and amenity areas, as defined under the 1960 Caravan Sites and Control and Development Act (as amended) for the application site in question, as identified in red on the submitted Site Location Plan (reference 1175-0010-02). The land has been used solely for such purposes for at least the last 10 years taking into account the provisions of Section 171B(1) of the Town & Country Planning Act (1990). In this case, the site is subject to relevant planning history relating to a caravan site.

Introduction

The main purpose of this application is to regularise the use of the land that falls outside the original planning permission granted in 1964 (discussed below). The extent of the caravan site has expanded since the original permission was granted in 1964 and this additional land forms now an established and integral part of the caravan site.

There has been some discussion between the Applicant and the Council as to the extent of the red line area. This is largely due to the contrasting red lines on the approved location plans on subsequent planning consents that sought to vary conditions of the original 1964 permission. The permissions granted in 2012 and 2018 included a greater area of land within their red-line than what was originally permitted on the 1964 permission.

The Applicant is of the opinion that the 2012 and 2018 permissions each constituted a new planning permission. Neither of these permissions were subject to a legal challenge and the time for a challenge has long since passed. As such, all the land included within the 2012 and 2018 planning permission have the benefit of those permissions. In contrast, the Council take the view that the variation permissions were merely to vary their relevant conditions under section 73, and this does not allow for extension to the original site boundaries.

The Applicant has been guided by the submitted Counsel Opinion (attached at Appendix 1), however the Council has requested that an application for a Certificate of Lawful Existing Use or Development is submitted to confirm the existing use of the land. Therefore, in the interests of regularising the lawful planning status of the site, the Applicant is pleased to submit evidence that, on the balance of probability, proves the area outside the original permission area in 1964 has been used as a caravan site, whether that be for the siting of caravans or land ancillary to the caravan site.

The Site

Holly Bush Caravan site is located approximately 400m west of Golden Leas and approximately 1.2km from Minister which offers some small convenience stores, a post office, pubs, and services such as schools, a hospital and library. Approximately 4km further west is the town of Sheerness, which offers a greater range of services such as schools, a church, supermarkets, banks, coffee shops and restaurants and other retail services. Sheerness also provides many employment opportunities and national rail links with London.

Many of the existing customers use their holiday homes at the site for 10 months of the year (March to January), in accordance with Condition 2 of Planning Permission ref: SW/11/1587 and Local Plan Policy SM5. The site's layout is set out in accordance with model standards and offers generous plot sizes, as well as large areas of recreational/amenity spaces for the customers to enjoy.

The site is adjacent to the defined Built-Up Settlement Boundary and is conveniently served by a public footpath which runs through the entirety of the caravan site and extends in a southernly direction to Plough Road. The entrance of the footpath is located opposite a bus stop which provides a sustainable link to Minster and Sheerness, and the wide range of services and facilities they provide.

Although the site falls outside of a designated Holiday Park area (Policy DM4), it was established as a caravan site in the 1960's and has continued to function as such for well over 50 years now. The site, which is currently accessed from Oak Lane, is located partially within a coastal erosion zone. The site is not positioned within land affected by a Green Belt, Area of Outstanding Natural Beauty (AONB) or National Park designation. There are no known natural or heritage assets at the site. For the avoidance of doubt, the land is recognised as being within Flood Zone 1, which represents the site is at the least risk of flooding.

Planning History

This section will explore the relevant planning permissions that affect Hollybush Farm Caravan Park.

NK/8/63/318

The first recorded planning permission establishing the site as a caravan park was issued in 1964 through the approval of planning permission reference NK/8/63/318 (attached at Appendix 2). Accompanying this permission were 5no. planning conditions. Three of those conditions are restrictive. These are:

- Condition 1, which restricts the use of the land as a caravan site to the period between 1st March and 31st October (8 months);
- Condition 3, which requires on or before the 31st October, that all caravans and camping equipment is removed from site; and,
- Condition 5, which requires details relating to the siting, design and external appearance of any buildings [RPS' emphasis] to be erected, to be submitted and approved by LPA.

This permission, and its conditions, governed the use of the land without interruption until the early 2010's. It is not clear what land benefits from this permission, as there seems to be no surviving coloured red-line plan.

SW/11/1587

In 2012 permission was granted by reference SW/11/1587, to vary the original planning permission (reference: NK/8/63/318) in order to extend the holiday use of the caravans from 8 months to 10 months of the year (decision notice attached at Appendix 3). The purpose of this application was to bring the site into accordance with the adopted Local Plan (2008) Policies (E1 and E6) at the time, allowing for caravan sites in the Isle of Sheppey to be occupied for 10 months in each calendar year.

Accompanying this permission were a total of 5no. planning conditions, of which four are relevant. These are:

- Condition 2, which explains no caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the park;
- Condition 3, which requires on or before the 31st October, that all caravans and camping equipment is removed from site;
- Condition 4, which set out any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time; and,
- Condition 5, which states the owners or operators of the park shall at all times operate the park strictly in accordance with the terms of the Schedule appended to the decision notice.

It is clear that Condition 3 should equally have been varied or removed, as it was no longer necessary or reasonable. This is a matter resolved in the subsequent planning permission.

The location plan approved with this application clearly shows a red line boundary that includes this application area. The officer's report refers to the caravan site as being 4 hectares, signifying that the Swale Borough Council considers this land to represent Hollybush Caravan Park.

18/502246/FULL

With the planning permission granted in 2012, it became apparent that Condition 3 of planning permission reference NK/8/63/318 should have also been varied/removed at the time of the 2012 permission as this clearly

contradicts the amended and permitted occupancy period of 10 months. It was inconsistent to have Condition 3 in place, which required caravans to be removed by 31st October when they can be sited and occupied until 2nd January. Therefore, a further variation of condition application (reference: 18/502246/FULL) was submitted and approved in 2018 (decision notice attached at Appendix 4), to remove this condition from the decision notice. All other conditions set out in the 2012 permission were retained.

The officer's report sets out that:

> *"The site extends to approximately 4ha, and contains caravans, as well as a site office, laundrette, play areas, open spaces and car parking"*

And

> *"As I am recommending approval of this application, as the NPPG sets out, this will constitute the issuing of a new planning permission. As such, aside from the standard time limit condition I have repeated the conditions as imposed on the SW/11/1587 permission"*

This permission has been implemented, and it follows that the site operates within the scope of this permission and its conditions today.

Purpose of an Application Under Section 191 of the Planning Act

The purpose of a CLEUD application is to establish that *"…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"* (Planning Practice Guidance (PPG) 001 Reference ID: 17c-001-20140306). Where a use does not benefit from planning permission, then for said use to be considered lawful, the use must have been in continuous use for a period of ten years. For the avoidance of doubt, 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 (PPG, 001 Reference ID: 17c-003-20140306).

In order to demonstrate this, Planning Practice Guidance (PPG) states that it is the Applicant who is *"…responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence"* (PPG, 006 Reference ID: 17c-006- 20140306).

As with any application for a Lawful Development Certificate (LDC), the onus is on the Applicant to provide sufficient information to support the application. The PPG sets out that '*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*' (Paragraph: 006 Reference ID: 17c-006-20140306).

The guidance quoted above provides the basis on which any LDC application under Section 191 should be assessed. This approach has been followed by the Applicant, demonstrated by the presentation of the evidence below to support the case and demonstrate that the use undertaken at the land in question is lawful.

Definition of Caravan Site

The House of Lords decision in 'Wyre Forest 1990' *[Wyre Forest District Council and SoS and Other, 1990 [2 A.C. 357]* (Appendix 5), dealt with a permission for the use of land as a caravan site in which the council

objected. The case considered the definition of a 'caravan site' and a 'caravan' and examined a case of whether a chalet was a 'caravan'.

Bridge L.J. states at Page 368, Part F: "*My Lords, I have to say that none of the foregoing observations dissuade me from the view that the terms 'caravan' and 'caravan site', when used at any time since D-Day [being the commencement of the Caravan Sites and Control of Development Act 1960, which defined both terms in statute] in any formal document under the Planning Acts, prima facie have the meaning which they are given by the Act of 1960 as amended.*"

The appeal was allowed with the Council paying the site owner's costs. Therefore, the definition of a 'caravan site' and a 'caravan' are as set out in the Caravan Sites and Control of Development Act 1960.

Section 1(4) of the 'Caravan Sites and Control of Development Act 1960' provides the definition of a '*caravan site*' as follows: '*the expression "caravan site" means 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.*'

Planning control adopts the same definition arising from the 1960 Act, as set out in Section 336 (Interpretation) of the Town and Country Planning Act 1990 (the '1990 Act', as amended). Section 336 of the 1990 Act states: "*In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) Act 1990, 'caravan site' has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960*".

A '*caravan site*' is statutorily defined in both planning and licensing terms. There are elements of caravan site which are used for the stationing of caravans, and areas which are used for ancillary purposes such as the roadways, private garden areas, service areas, car parking, open space and recreation areas, storage, caravan sales, etc.

Caravan

Section 29 of the 1960 Act provides the definition of a 'caravan' as follows: '"*caravan" means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—*

> *(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or*
>
> *(b) any tent;*'

The definition of a '*caravan*' in section 29 above was amended by section 13 of the 'Caravan Sites Act 1968' to cover 'Twin-unit caravans'. Section 13 of the 1968 Act was amended by 'The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006'. The definition of a 'caravan' is now therefore as follows:

> *(1) A structure designed or adapted for human habitation which—*
>
> *(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and*
>
> *(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),*

> *shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the M1 Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.*
>
> *(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—*
>
> *(a) length (exclusive of any drawbar):65.616 feet (20 metres);*
>
> *(b) width: 22.309 feet (6.8 metres);*
>
> *(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).*

For planning purposes, both the Town and Country Planning Act 1990 (the '1990 Act', as amended), and The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the 'GPDO') both adopt this singular definition of a caravan.

The definition within the 1960 Act includes all types of caravans as being the same and interchangeable, including touring caravans, static caravans and park homes.

Therefore, a planning permission for the siting of caravans is a use of land, and not in itself operational development. Unless restricted or controlled by condition, caravans can normally be sited anywhere within an area covered by a planning permission. The layout of a site; the caravan types that can be sited there; and the maximum numbers of caravans that can be sited can only be restricted by condition as they are normally permitted development as required by the site licence.

Interrelationship Between Planning and Licensing

It is important to note that all park homes, lodges and static caravan units must technically comprise caravans as defined under the 1960 Act as referred to above to be considered a caravan. Unlike most other areas of planning, a dual control system exists between the 1990 Act and the 1960 Act. The conventional differentiation applied is that planning permissions should be issued mainly on the basis of the principle of the use and its external effects, and that site licences should be concerned with internal arrangements which affect only the users of the site and are primarily concerned with health and safety.

The licencing process, using model standards, would dictate the precise layout and spacing of individual units, the requirement for ancillary development and other features of the caravan site. Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015, as amended) refers to two classes of permitted development applicable to caravan sites; Class B is development required by the conditions of a site licence being in force under the 1960 Act. Under normal circumstances therefore, the roads, paths, hardstanding and other necessary infrastructure (including the laying out of recreational space) are covered by the site licence and would be permitted development should the site licencing require such features.

The Planning Unit

The land in question and as shown on the accompanying location plan has been used as a caravan park for a significant period of time. The land used as the caravan site forms part of a larger area of land that is and has remained in one ownership. This section explores the evidence that demonstrates for just how long the land has been used as a caravan site.

It is necessary to define the relevant planning unit to which the lawful use relates. The Development Control Practice encyclopedia provides some useful information with regard to defining a planning unit. It acknowledges that the concept of the planning unit is one that continues to cause considerable practice difficulty, because the courts are insistent that each case is to be considered on its merits as matters of fact and degree. As section 4.324 states:

> *"The general rule has always been that the materiality of change should be assessed in terms of the whole site concerned, normally the whole of the area in the same ownership or the same occupation. But the consequence of applying that as a universal rule is that the larger the unit of ownership or occupation, the less likely is a change in the use of part of it liable to constitute a material change in the whole.*
>
> *It is only normally possible to select a smaller unit in the same occupation where there is a functional and physical separation of activity. Both functional and physical separation are required before a smaller unit can be identified, since without functional separation the ancillary link remains and without physical separation there is no smaller physical area which can be identified as a separate unit.*
>
> *With regard to the subdivision of the planning unit a material change of use does not occur automatically. The primary use of the new units may remain the same as the former primary use of the whole. But the subdivision may have the effect of changing the character of the use and may have planning consequences which indicate that a material change has occurred. In summary a planning unit is the area of land which is to be looked at in order to assess what planning rights apply to all or part of that area."*

Relevant guidance is provided by case law. In Burdle v Secretary of State for the Environment and another [1972] 1 WLR 1207, it was held:

> *"What, then are to be considered the appropriate criteria to determine the planning unit which should be considered in deciding whether there has been a material change of use? Without presuming to propound exhaustive tests apt to cover every situation, it may be helpful to sketch out broad categories of distinction.*
>
> *First, whenever it is possible to recognise a single main purpose of the occupiers use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered. That proposition emerges clearly form G. Percy Trentham Ltd v Gloucestershire County Council [1966] 1 WLR 506, where Diplock LJ said at p.513:*
>
> *"What is the unit which the local authority are entitled to look at and deal within an enforcement notice for the purposes of determining whether or not there has been a 'material change in the use of any buildings or land'? As I suggested in the course of the argument, I think for that purpose what the local authority are entitled to look at is the whole of the area which was used for a particular purpose, including any part of that area whose use was incidental to or ancillary to the achievement of that purpose.*
>
> *But, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is ancillary to another. This is well settled in the case of as composite use where the component activities fluctuate in their intensity form time to time, but different activities are not confined within separate and physically distinct areas of land.*
>
> *Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated*

> *purposes. In such a case each area used for a different main purpose (together with its ancillary activities) ought to be considered as a separate planning unit."*

To decide which of these three categories apply to the circumstances of any particular case at any given time may be difficult and it must be a question of fact and degree. There may indeed be an almost imperceptible change from one category to another. Thus, for example, activities initially incidental to the main of an area of land may grow in scale to a point where they convert the single use to a composite use and produce a material change of use of the whole. Again, activities once properly regarded as incidental to another use or as part of a composite use may be so intensified in scale and physically concentrated in a recognisable separate area that they produce a new planning unit of which is material changed. It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, unless and until some smaller scale unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally."

Using the Burdle tests and its '*useful working rule*', the starting point is whether the site has a single main purpose, and if so, the correct planning unit is the unit of occupation. The starting point is the ownership area, and this is shown on the accompanying location plan.

In all cases, a Court will invariably look at the question of, what is the planning unit, and try to apply common sense to its assessment and judgement, using ownership and the unit of occupation as a starting point. In this case, the land in question and as shown on the accompanying location plan is the caravan site which forms a single planning unit. This is evidenced in the location plans of SW/11/1587 and 18/502246/FULL which include the 1964 permission area and all the ancillary land around it. The Officer Reports of the variation permissions (SW/11/1587 and 18/502246/FULL) agree, and set out the site extends to an area of approximately 4 hectares, and contains caravans, as well as a site office, laundrette, play areas, open spaces and car parking.

It is well established then, that the entirety of this area is considered to be a single planning unit. When read alongside the statutory declarations and the aerial photography, the point that the entire area shown within the red line of the location plan forms the planning unit of the caravan site is reinforced. No part of the site has been used for agriculture, or indeed any other purpose, in the last 10 years.

Burden of Proof

Planning Practice Guidance (March, 2014) contains guidance on who is responsible for providing sufficient information to support an application (Paragraph 006, Reference ID: 17c-006-20140306). It states that the Applicant is responsible for providing sufficient information to support an application. It also 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."*

The burden of proof is on the Applicant, but the courts have held that the relevant test of the evidence on such matters is 'the balance of probability'. And as this test will accordingly be applied by the Secretary of State in any appeal against their decision, a Local Planning Authority (LPA) should not refuse a certificate because the Applicant has failed to discharge the stricter, criminal burden of proof, namely *'beyond reasonable doubt'*.

Moreover, the Court has held (see F.W. Gabbitas 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. 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 the application, provided the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of the certificate *'on the balance of probability'*.

Case for the Applicant

For the avoidance of doubt, the question in determining the application for the established use is set out in Section 191 of the Town and Country Planning Act 1990 which states that '*For the purposes of this Act uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason)'*.

Section 171B of the Act sets out the relevant timeframes after which no enforcement action may be taken. For buildings '*no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed*' and for the use of land '*no enforcement action may be taken after the end of the period of ten years beginning with the breach*'.

Without prejudice to the Applicant's view that the application land benefits from permission through the grant of the existing variation permissions (SW/11/1587 and 18/502246/FULL), the key questions in the absence of any planning permission is: "*what has the land been used for and has this use occurred for ten years or more*"?.

Accompanying this application is detailed evidence which establishes the use that has taken place on the land the subject of this application, the duration of those activities, and the clear justification therefore for the issuing of a lawful development certificate for the said use. Evidence proving the stationing of caravans on the site can be demonstrated and interrogated from a variety of sources. The evidence submitted as part of this application is as follows:

- Extant Planning History at the Site
- Statutory Declarations made by
    - David Brunt (Owner January 2003 – April 2018)
    - Raoul Fraser (Owner April 2018 – Present)
    - Terry Carter (Grounds and Maintenance Team, last 20 years)
- Aerial Photographs (2003 – 2020)

This evidence is provided in support of this application under separate cover. We examine this evidence and how it supports the application below.

Planning History

In order to establish the lawfulness of the use of the application site as forming part of the existing caravan site, it is necessary to provide evidence that various activities associated with this wider caravan park has taken place on this land for at least 10 years and that it forms part of the same 'Planning Unit', which is a caravan site.

At the outset, it is important to clearly establish that the siting of caravans at Hollybush Farm Caravan Park is in itself lawful, as it would not be possible to set out that the application land is being used in association with the wider site as part of the caravan site that was not itself lawful.

As set out above therefore, the use of land as a caravan site was originally granted planning permission through the grant of application reference NK/8/63/318 for "*the layout of a caravan camp*" in March 1964, which permitted use of the land as a caravan site. Whilst we are not in possession of any coloured plans, we are led to believe by the Council that the area illustrated by the thick black line on the location plan attached at Appendix 2, is the area of land subject to the 1964 planning permission. This area is also illustrated as blue on the site location plan attached at Figure 1.

Since then and as already discussed above, the red line boundary of subsequent variation of conditions applications in 2012 and 2018, where submitted and approved with a wider red line boundary and in the applicant's view forms the full extent of the caravan site today. However, without prejudice to this position and for the purpose of this application, it is assumed that only the area covered by the 1964 planning permission currently benefits from planning permission for the use of land as a caravan site.

As such, the rest of this section presents additional evidence which supports the position that the application site (land outside of the 1964 planning permission and as outlined in red at Figure 1) has been used continuously for 10 or more years as a caravan site (as defined under the 1960 Caravan Sites and Control and Development Act (as amended)), either for the stationing of caravans or land used as ancillary recreational and amenity areas to this use.

Statutory Declaration

Further evidence in support of this application is in the form of statutory declarations made by the previous owner (Appendix 6), the current owner (Appendix 7) and grounds and maintenance worker (Appendix 9). The key elements of these statutory declarations are set out below.

David Brunt

The statutory declaration (Appendix 6) made by the previous owner of the site, David Brunt, explains that the site was purchased by his company in 2003 and was subsequently sold in April 2018. It is declared that David Brunt was responsible for all day-to-day operations at Hollybush Farm Caravan Park. David Brunt therefore has a very good knowledge of the property and how it has evolved and operated during this period of ownership.

Within this declaration, David Brunt explains that from 1st November 2004 to 1st March 2005, extensive redevelopment of the area previously laid out for caravan bases was carried out. During this time, new concrete bases for modern static caravan homes and their associated facilities were installed, and additional works including resurfacing internal roads and creating additional car parking spaces were carried out.

Exhibit 1 of the statutory declaration are aerial photographs dated between 2003 and 2007 which illustrate the installation of bases, roadways and hardstanding areas. Some of the bases are vacant between 2007 and 2015 due to lower customer demand, but it is declared that these bases were always capable of stationing static caravans and the relevant services remained in place. The site operated at full capacity from 2015, until the site was sold in April 2018.

David Brunt states that a planning application for the construction of a new access road was granted in October 2007 (reference SW/07/0345). Construction work was carried out between June and August 2009, with the new access road being opened on 30th August 2009. Then, in 2011, a Section 73 application (SW/11/1587) was submitted to extend the holiday use of customers' caravans from 8 to 10 months. The red line plan, attached at exhibit 2, defined the extent of the caravan park as it was used then. This application was approved with the submitted red line plan in February 2012.

The Declaration is clear that the areas of the property that were not used for the stationing of caravans, or the necessary infrastructure such as roads, and car parking, were used for ancillary purposes associated with the operation of the caravan park. At exhibit 3, our attention is drawn to a plan titled: Breakdown of Site in Sections, with various colour coded sections for descriptive ease.

Purple Area

The area outlined in purple is towards the western side of the site. This land was used as an amenity space for activities such as dog walking, and general amenity, and it is declared that customers used this land over the entire period of ownership from 2003 to 2018.

The owner's employees were active in maintaining this area. They would trim grass, and maintain fences and hedges. Some customers were permitted to plant trees in memory of deceased partners, as it was a peaceful area and ideal for reflection.

Green Area

The area outlined green is at the east of the site. This land was used as amenity space for activities such as dog walking, informal recreational play and general amenity by customers throughout the entire period of ownership from 2003 to 2018.

The owner's employees were active in maintaining this area. They would trim grass and maintain fences and hedges. This area was also used occasionally for overflow car parking. It is established that in 2008, a play area was installed for the customers' children. It consisted of swings, a slide, a sandpit and a football pitch – all of which remained in place on the date the site was sold.

Yellow Area

The area outlined in yellow, to the south east, was used for similar amenity space, for example dog walking and general amenity. Customers enjoyed using this land over the entire period of ownership from 2003 to 2018. The sites employees maintained this area, trimming grass and maintaining fences and hedges.

Blue Area

The area outlined in blue has been used as amenity space for customers to enjoy over the entire period of ownership from 2003 to 2018. Specifically, this area was used by customers as a dog walking area. Employees maintained this area, trimming grass and maintaining fences and hedges.

In summary then, David Brunt provides supportive evidence that between 2003 and sale of the site in 2018, all of the land has been used as a caravan site, and has done so for a period of at least 10 years without interruption.

Raoul Fraser

The statutory declaration (Appendix 7) made by the current owner of the site, Raoul Fraser, explains that the site was purchased by his company in April 2018 and he has knowledge of the site from this date to the present day. Raoul Fraser declares that the caravans stationed on the site (not including those subject to the recent 2019 development) were present on the day the site was acquired, and have remained in the same layout ever since. It is declared that the areas of the site that are not used for the stationing of caravans or the necessary infrastructure such as roads and car parking, have continued to form part of the caravan site for either ancillary purposes such as recreation, or for stationing caravans.

The declaration is accompanied by an exhibit 1, which is a plan titled: Breakdown of Site in Sections, with various colour coded sections for descriptive ease.

Purple Area

The area outlined in purple is towards the western side of the site. This area has continued to be used as an amenity space for customers and for activities such as dog walking and general amenity. Grounds staff maintain this area, and ensure it is well kept and accessible to customers.

Green Area

The area outlined green is at the east of the site. Until August 2019, Raoul Fraser continued to use the land as amenity space for customers for recreational activities such as picnics, football and other sporting games

and this was utilised this way until August 2019. After this date, his company redeveloped the area with 14 static caravans, which was completed in October 2019. This was on the basis that the red line area as approved in variation of condition applications from 2012 and 2018 included this section of the site as part of the caravan site and therefore suitable for the siting of caravans.

Mr Fraser even received correspondence from the Council's Enforcement Officer, confirming it was ok to proceed (attached at Appendix 8).

Yellow Area

The area outlined in yellow, to the south east, has continued to be used as an amenity space for customers and for activities such as dog walking and general amenity. He employs grounds staff to maintain this area, and ensure it is well kept and accessible to customers.

Blue Area

The area outlined in blue has continued to be used as an amenity space for customers and for activities such as dog walking and general amenity. A grounds staff maintain this area, and ensure it is well kept and accessible to customers.

In summary, Raoul Fraser provides supportive evidence that between April 2018 and the present date, all of the land continues to be used as a caravan site.

Terry Carter

Terry Carter has, it is declared in his Statutory Declaration (Appendix 9), worked on the site for the grounds and maintenance team for 20 years, and therefore has more than 10 years of knowledge of the site, and how it has operated during this time.

It is set out that the caravans stationed on the site (not including those subject to the recent 2019 development) have been present since 2007 and have remained in the same layout ever since. The areas of the site that have not been used for the stationing of caravans or the necessary infrastructure such as roads and car parking have been used for ancillary purposes associated with the operation of the caravan park.

The statutory declaration is accompanied by an exhibit 1 which is the plan titled: Breakdown of Site in Sections, identical to that attached to David Brunt and Raoul Fraser's Statutory Declarations and has been included for descriptive ease.

Purple Area

The area outlined in purple is towards the western side of the site. This land has been used as an amenity space for activities such as dog walking, and general amenity, and it is declared that this still takes place today. Terry Carter sets out that they are still involved in maintaining this area, trimming grass and maintaining fences and hedges.

Green Area

The area outlined green is at the east of the site. Until August 2019, this land was used for amenity space for customers for activities such as dog walking, informal recreational play and general amenity. He recalls on a number of occasions customers enjoying picnics in this area and playing games such as frisbee, rounders and football. He also recalls a play area and a football pitch being present on this section of the site since 2008 to 2019. Then, this section of the caravan site was redeveloped to occupy 14 static caravans which was completed in October 2019.

Yellow Area

The area outlined in yellow, to the south east, was used for amenity space, for example dog walking and general amenity. Customers have enjoyed using this land to the present day. Terry Carter is involved in maintaining the area, trimming grass and maintaining fences and hedges.

Blue Area

The area outlined in blue has been used as amenity space throughout Terry Carter's time working on the site and this area continues to be used for these purposes today. This area is commonly used by customers as a dog walking area, and Terry is involved in maintaining this area, trimming grass, and maintaining fences and hedges.

In summary, Terry Carter corroborates the declarations made by David Brunt and Raoul Fraser, providing supportive evidence that between 2003 and the present date, all of the land has been used as a caravan site, and has done so for a period of at least 10 years without interruption.

Aerial Photographs

The application site forms part of the Hollybush Farm Caravan Park. There is evidence that the land has been used as a caravan site and land ancillary to a caravan site since 2003. The aerial photographs attached (dating back to 2003) at Appendix 10 help to provide a useful timeline of the status of the land. The images demonstrate the use of the site as a caravan site and corroborate the information set out in the statutory declarations.

At August 2003, it is evidenced from the aerial photograph that the site benefitting from planning permission (reference NK/8/63/318) was in use as a caravan site. The image shows that caravans are stationed on the land, and concrete bases, associated facilities and an internal road have been installed. The "green" area (to the east) identified in the plan at Figure 2 can be seen to be maintained, providing space for amenity and activities such as dog walking and informal recreational play. This can also be observed for the "purple" area (to the west) identified in the statutory declarations. At the time the photograph was taken (August 2003) the "yellow" (south east) and "blue" areas (south west) appear to be in agricultural use, meaning the use of this land as part of the caravan site may have begun after the harvest season.

At April 2007 it is clear that additional bases, and revisions to the internal road, new car parking spaces, and new hardstanding has been installed since 2003, mostly in the area outlined "orange" in the plan attached at Figure 2. A footpath to the "purple" area (west) has been created for customers to more easily use the space, and mowing lines and neat edge trimmings illustrate the area is being well maintained for use. Hardstanding has been laid providing easier access to the "green" area (east), and this land can be seen to be well maintained with neat boundaries and mowing lines. The "yellow" area to the south east and "blue" area to the south west are demonstrably part of the caravan site. Means of access are visible, and the land is maintained with clear boundary treatment.

At July 2011, before application reference SW/11/1587 was submitted, it is evident that a greater number of caravans are being sited on concrete bases within the "orange" area when compared to the 2007 image, and the hardstanding and vehicle parking spaces appear to be in greater use. Access into each of the "green", "yellow", "blue" and "purple" areas is clearly well maintained, and the land itself continues to benefit from good maintenance, including trimming and grass cutting.

At July 2013 there is little change in the layout of caravans, hardstanding, parking spaces and access compared to the 2011 image. The image demonstrates that all of the land continues to be well maintained, and the boundary between the land within the ownership of the caravan site and other land is strong. At the "green" area (east), the image corroborates David Brunt and Terry Carter's statutory declarations which said

a play area was installed for customer's children. The image shows a swing, slide, sandpit, goalposts and maintained land.

At July 2014, and March 2015, the images are somewhat blurry. Nevertheless there is little visible change between this image and that taken in 2013. The caravan plots, hardstanding, parking and access areas are still in use. The "green" area at the east still clearly occupies children's play equipment, and the "yellow", "blue", and "purple" areas can be seen to continue to benefit from good maintenance and strong boundaries.

At April 2017 the aerial image is sharper, and this is the final image of the site before it was sold by David Brunt's company to Raoul Fraser's company. The image continues to show use of the site for the sitting of caravans, hardstanding, parking spaces in the "orange" area and access to the "green", "yellow", "blue" and "purple" areas. These areas continue to benefit from strong boundaries of maintained hedges and fences, and mowed grass. The children's play field at the "green" area (to the east) can be seen to occupy swing, slide, sandpit, and goalposts.

At July 2018, approximately three months after the site was sold by David Brunt's company to Raoul Fraser's company, the site retains the same use across all of the same areas as the April 2017 image. This is consistent with Raoul Fraser's statutory declaration which set out the site had the same layout, infrastructure, parking and ancillary areas following the change in ownership. At May 2019, three months before the "green" area began being prepared for the siting of caravans in August 2019.

The final aerial image is taken during March 2020. It shows that the "green" area to the east continues to be used as a caravan site and is now being used to site caravans, rather than be used for purposes ancillary to the caravan site. The "yellow" area shows markings in the ground as a result of the works that had been carried out on the site, however it is still maintained and available for use by the site's customers. The "blue" area at the south west and the "purple" area at the west are visibly maintained and accessible for use by the site's customers.

In summary then, the aerial photographs consistently show the stationing of caravans, hardstandings, amenity space, management of the site, managed internal road and maintained access. These images provide clear evidence that the site has been in continuous use for a period well in excess of 10 years as a caravan site.

Conclusion

On the evidence above, it is clear that the land subject to this application has been used as a caravan site for at least 10 years. A review of the statutory declarations by David Brunt, Raoul Fraser and Terry Carter, in combination with the planning history and aerial photographs, it is clear that a continuous use can be demonstrated for at least the last 10 years. There is no evidence that the use has changed to another use, been abandoned, or that planning permission has been granted for another use. As with every application under Section 191 of the Town and Country Planning Act, it is not necessary to rely on any one source of evidence alone; indeed, that is very rarely the case. The evidence that has been presented should be taken together, on the whole.

In conclusion, based on the evidence presented, in its totality, that is both robust and convincing, it is considered that the application is supported by information demonstrating that, on the balance of probability, the use of the land shown on attached plan number 1175-0010-02 has been used as a caravan site for considerably more than 10 years.

In the absence of any evidence to contradict that presented, the Council must therefore issue a CLEUD.

Yours sincerely,

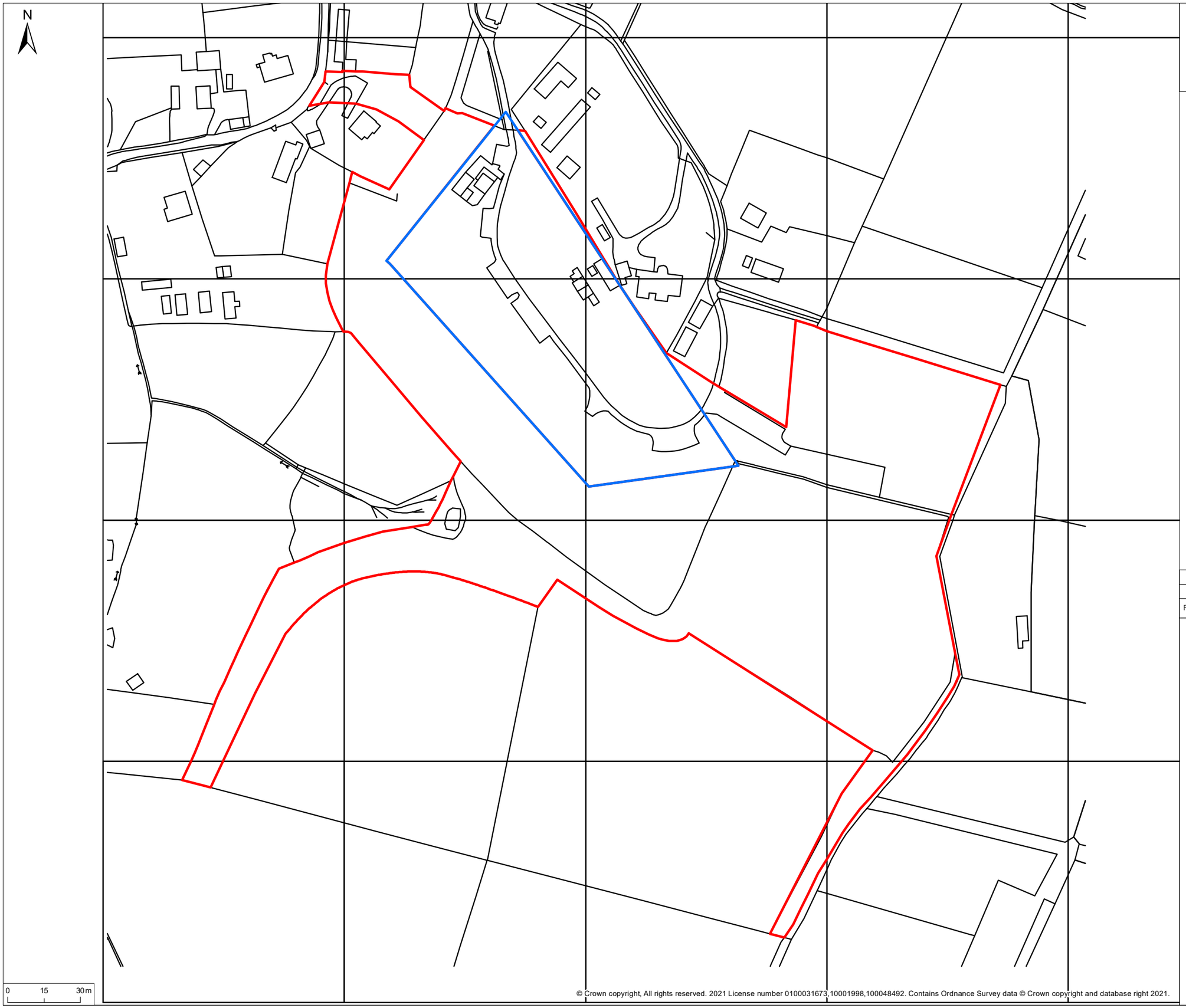
Our ref: PPS1175

for RPS Consulting Services Ltd

David Hancock MRTPI
Senior Planner
david.hancock@rpsgroup.com
+44 (0) 1235 821888

Figures

Figure 1 – Site Location Plan



Notes
1. This drawing has been prepared in accordance with the scope of RPS's appointment with its client and is subject to the terms and conditions of that appointment. RPS accepts no liability for any use of this document other than by its client and only for the purposes for which it was prepared and provided.
2. If received electronically it is the recipients responsibility to print to correct scale. Only written dimensions should be used.

Legend

- Site Boundary
- Other Land under Ownership of Applicant

Rev	Description	By	CB	Date

MAKING COMPLEX EASY

20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

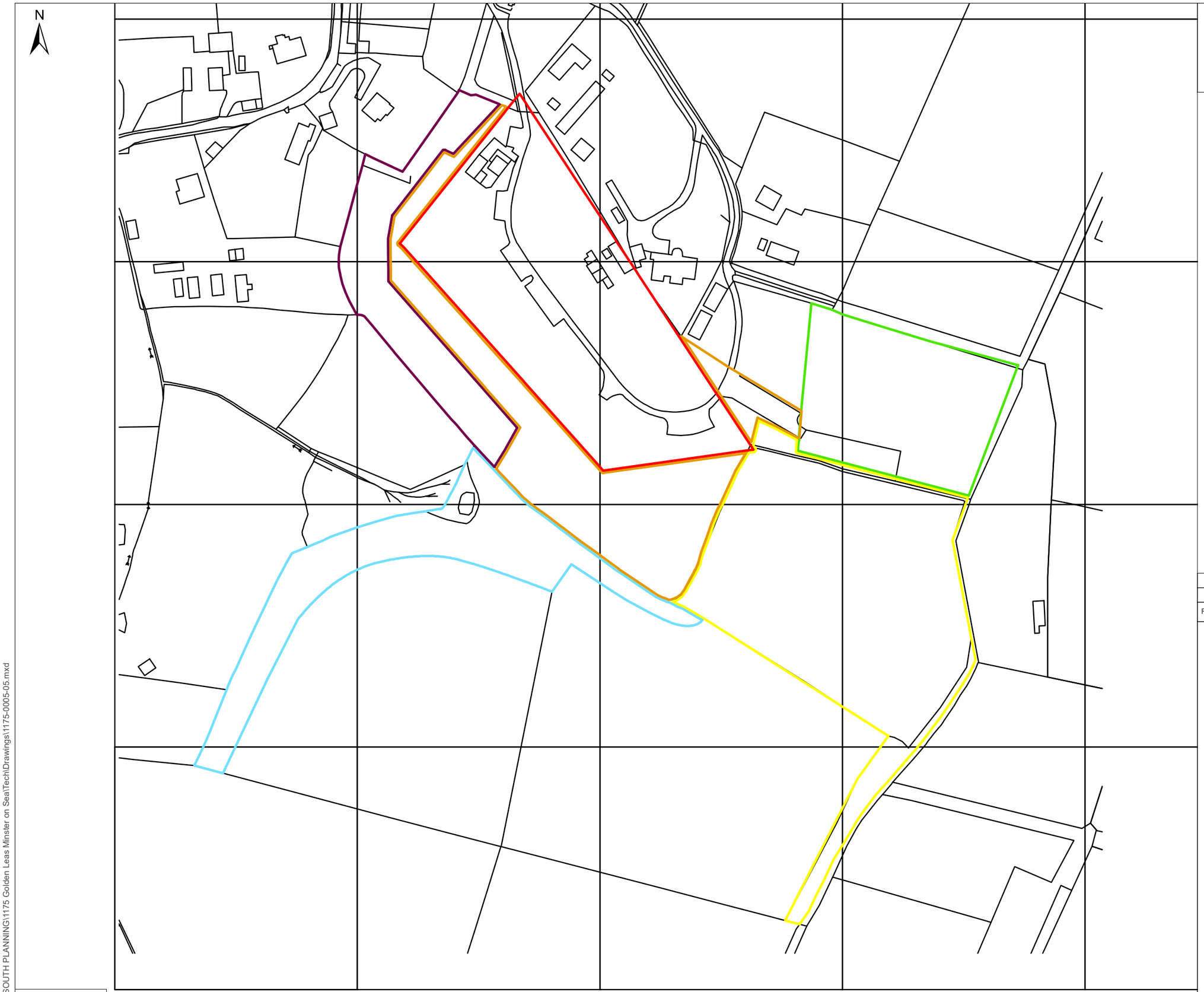
Title Site Location Plan

Status	Drawn By	PM/Checked By
FINAL	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,500	MAR 2021
Figure Number		**Rev**
1		-

rpsgroup.com

O:_SOUTH PLANNING\1175 Golden Leas Minster on Sea\Tech\Drawings\1175-0010-02.mxd

Figure 2 - Breakdown of Site in Sections Plan



Notes
1. This drawing has been prepared in accordance with the scope of RPS's appointment with its client and is subject to the terms and conditions of that appointment. RPS accepts no liability for any use of this document other than by its client and only for the purposes for which it was prepared and provided.
2. If received electronically it is the recipients responsibility to print to correct scale. Only written dimensions should be used.

Legend

Area of 1963 Planning Permission ref: NK_8_63_318

Rev	Description	By	CB	Date

MAKING COMPLEX EASY

20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

Title Breakdown of Site in Sections

Status	Drawn By	PM/Checked By
DRAFT	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,500	MAY 2021

Figure Number **1** Rev **-**

rpsgroup.com

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APPENDICES

Appendix 1 – Mr Timothy Jones Legal Opinion Dated: 25th September 2020

- 2020 -

IN THE MATTER OF HOLLYBUSH CARAVAN PARK

LOVAT PARKS LTD

and

SWALE BOROUGH COUNCIL

OPINION

Timothy Jones

Peter Griffiths, MRTPI,
Principal Planner,
RPS Consulting UK & Ireland,
20 Western Avenue,
Milton Park, Abingdon,
Oxfordshire, OX14 4SH.
peter.griffiths@rpsgroup.com,

OPINION

1. The site to which this Opinion relates is the Hollybush Caravan Park, Oak Lane, East End, Minster, ME12 3QR. This is in the Isle of Sheppey. The local planning authority is Swale Borough Council ("SBC").

2. In 1963 a Mr O. W. Beal applied for planning permission for use of land as a caravan camp.[1] On 9th December 1963, Kent County Council granted planning permission for this, subject to five conditions. These conditions included:

> *(i) This permission shall not authorise the use of the land as a site for caravans except during the period from 1st March to 31st October in each year.*
>
> *(iii) on or before 31st October in each year all caravans standing on the site and all camping equipment shall be removed from the site and stored in an area as may be agreed with the Local Planning Authority*

3. There seem to be only two plans that may relate to this permission; one may be a location plan (albeit in black and white and no indication anywhere on the plan that this is in fact an approved plan); and the other a layout plan showing caravans largely within what might be the red line of the original permission.

4. On 3rd February 2012 SBC granted Mr Martin Brunt planning permission varying condition 1 to ten months' occupancy.[2] The location plan approved with this application clearly shows a red line boundary that includes the existing holiday park itself and also the undeveloped land to the south. The officer's report refers to the caravan site as being 4 hectares, substantially more than appears to have been covered by the plans mentioned in paragraph 3 above. This provides evidence that SBC have acknowledge the wider red line represents the entirety of Holly Bush Caravan Park.

---

1 NK/8/63/318

2 ref. 11/1587.

There was no legal challenge to this permission, which was implemented years ago by a previous owner.

5. On 23rd July 2018, SBC granted Lovat Parks Ltd planning permission removing condition (iii) of the 1963 permission. The officer's report that preceded this permission included the following:

> *"The site extends to approximately 4ha, and contains caravans, as well as a site office, launderette, play areas, open spaces and car parking."*
>
> And
>
> *"As I am recommending approval of this application, as the NPPG sets out, this will constitute the issuing of a new planning permission. As such, aside from the standard time limit condition I have repeated the conditions as imposed on the SW/11/1587 permission."*

6. Drawing 1175-0001-002 created in April 2018 clearly shows the existing holiday park itself and also the undeveloped land to the south subject to the 2011 permission with a little additional land. There was no legal challenge to this permission, which was implemented by previous owners.

7. There is now a pending application that is seeks to vary the occupancy period from 10 months to 12 months. This reflects a recently adopted interim planning policy in the borough which permits caravan parks to convert to a 12-month residential occupancy.

Opinion

8. Where a section 73 application is granted, an applicant has the benefit of both the original permission (without any variation) and a new planning permission granted on the application. There are therefore three planning permissions in this case.

9. The 2012 and 2018 permissions each constituted a new planning permission. It may be that they could have been challenged at the time,[3] or it may be that the area covered reflected plans since lost or what the planning unit had become by the date of those permissions. Certainly, the officers who considered the matter took the view that the area of the caravan park was 4 hectares. There does not seem to be any good reason for saying they erred in this respect, especially since over the years the site had received detailed attention from SBC officers. The time for a challenge has long since passed. Detailed consideration of what might have happened in 2012 or 2018 is therefore now academic.

10. Further, this is an appropriate case for the presumption of regularity to be applied. There seems is no surviving coloured red-line plan for the 1963 permission and those plans that do survive are uncertain. I am not persuaded that this was a clear mistake by the officers concerned both as to the boundaries of the site and as to it area and I do not consider that a court would be. In such circumstances it would be wrong to say that the officers involved in 2012 and in 2018 acted outside their powers.

11. I am instructed that the relevant area of land has in fact been used for well in excess of 10 years as recreational areas ancillary to the caravan site. If this can be proved on the balance of probabilities, the dispute would be academic in any event.

12. I therefore conclude that the plans attached to the 2012 permission (and probably the 2018 permission) show the extent of the caravan site. Caravans can be sited anywhere within this area.

---

3 Finney *v* Welsh Ministers [2019] EWCA Civ 1868.

TIMOTHY JONES

No. 5 Chambers,

Birmingham - London - Bristol - Leicester

Tel. 0845 210 5555

www.no5.com

25th September 2020.

Appendix 2 - Decision Notice and Location Plan NK/8/63/318

C.D.C.

C.C. 3.

Reference Code of Application NK/8/63/318

COUNTY OF KENT

TOWN AND COUNTRY PLANNING ACTS.
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 3, 1963

Notification of Grant of permission to Develop Land subject to conditions

To:— The Personal Representatives of O.W. Beal (deceased),
c/o E.J.C. Beal, Esq.,
Hollybush Farm,
Oak Lane,
Minster,
Sheerness, Kent.

TAKE NOTICE that the KENT COUNTY COUNCIL, acting as the local planning authority under the Town and Country Planning Acts for the Administrative County of Kent, HAS GRANTED PERMISSION for development of land situate at Hollybush Farm, Oak Lane, in the Parish of Minster-in-Sheppey - -

and being the layout of a caravan camp - - - - - - - - - - - - - - -

referred to in your application for permission for development dated the ninth day of December, 19 63, Reference Code NK/8/63/318

SUBJECT TO THE CONDITIONS SPECIFIED hereunder:—

(i) This permission shall not authorise the use of the land as a site for caravans except during the period from 1st March to 31st October in each year;

(ii) no railway vehicles, tramcar, omnibus body, aeroplane fuselage, or similar structure, whether on wheels or not and however adapted, shall be stationed or erected on the site;

(iii) on or before the 31st October in each year all caravans standing on the site and all camping equipment shall be removed from the site and stored in an area as may be agreed with the Local Planning Authority;

(iv) the site shall be kept free from all litter and refuse and shall at all times be maintained in a clean and tidy condition to the satisfaction of the Local Planning Authority; and

(v) details relating to the siting, design and external appearance of all buildings to be erected on the site shall be submitted to and approved by the Local Planning Authority before any works are begun.

[P.T.O.

The grounds for the imposition of such conditions are:—

(i) The land is unsuitable for camping other than during the summer season;

(ii) in order to preserve the amenities of the area;
to and
(iv)

(v) no such details have been submitted.

Dated this nineteenth day of March, 19 64.

COUNTY HALL,
MAIDSTONE.

(Signed) G. T. Beckett
Clerk of the County Council.

NOTE:—The permission referred to overleaf is confined to permission under the Town and Country Planning Acts, and the Town and Country Planning General Development Order, 1963, and does not obviate the necessity of compliance with any other enactment, bye-law, or other provision whatsoever or of obtaining from the appropriate authority or authorities any permission, consent, approval or authorisation which may be requisite.

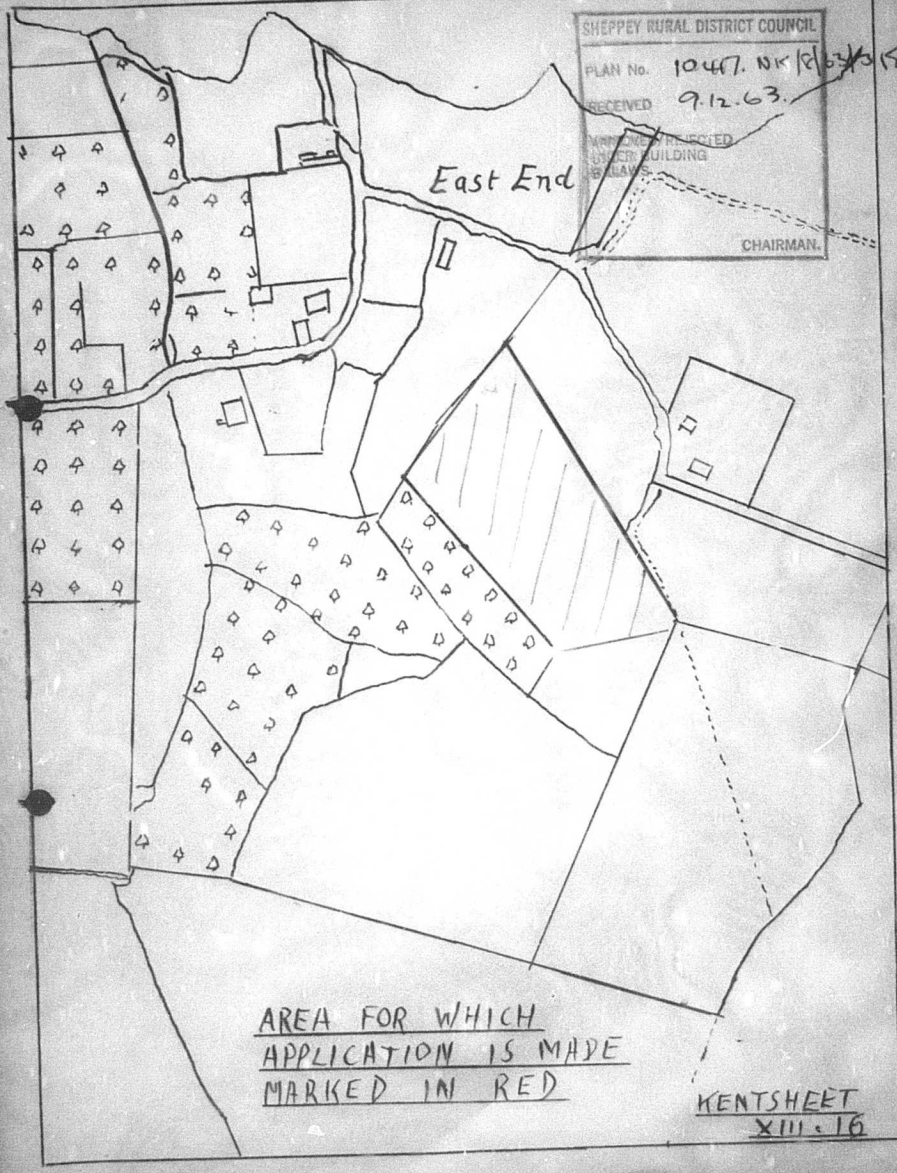
NOTIFICATION TO APPLICANT

---

(1) If the Applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may, by notice served within one month of receipt of this notice, appeal to the Minister of Housing and Local Government, Whitehall, London, S.W.1, in accordance with Section 23 of the Town and Country Planning Act, 1962. The Minister has power to allow a longer period for the giving of a Notice of Appeal and he will exercise his power in cases where he is satisfied that the Applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed development are in progress. The Minister is not, however, required to entertain such an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of Sections 17 (1), 18 (1) and 38 of the Act and of the Development Order and to any directions given under the Order.

(2) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Minister of Housing and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the county district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with Section 129 of the Town and Country Planning Act, 1962.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused, or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Sections 123 and 134 of the Town and Country Planning Act, 1962.


SHEPPEY RURAL DISTRICT COUNCIL
PLAN No. 1046/. NK/R/63/3/15
RECEIVED 9.12.63.
APPROVED/REJECTED
UNDER BUILDING
BY-LAWS
CHAIRMAN.
East End
AREA FOR WHICH
APPLICATION IS MADE
MARKED IN RED
KENTSHEET
XIII . 16

Appendix 3 - Decision Notice and Location Plan SW/11/1587

Swale House, East Street
Sittingbourne, Kent ME10 3HT
DX59900 Sittingbourne 2
Phone: 01795 424341
Fax: 01795 417141
www.swale.gov.uk

Swale BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/11/1587

CASE NO. 20906

NOTIFICATION OF GRANT OF PERMISSION TO DEVELOP LAND

TO: Mr Martin Brunt
C/o Mr John Burke
JB Associates
13 Morris Court Close
Bapchild
Sittingbourne
Kent ME9 9PL

TAKE NOTICE that Swale Borough Council, in exercise of its powers as a Local Authority under the Town and Country Planning Acts, **HAS GRANTED PERMISSION** for development of land situated at:

Hollybush Farm Caravan Park, Oak Lane, Minster, Sheppey, Kent, ME12 3QR

and being Variation of condition (i) of planning permission NK/8/63/318 to allow 10 month occupancy

referred to in your application for permission for development accepted as valid on the 19th December 2011

SUBJECT TO THE CONDITIONS specified hereunder:-

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

(a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
(b) No caravan shall be used as a postal address; and
(c) No caravan shall be used as an address for registering, claiming or receipt of any state benefit; and

FOR FURTHER CONDITIONS AND GROUNDS – PLEASE SEE ATTACHED SHEET

YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

avn 2.1 02.02.12

Swale House, East Street
Sittingbourne, Kent ME10 3HT
DX59900 Sittingbourne 2
Phone: 01795 424341
Fax: 01795 417141
www.swale.gov.uk

Swale BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/11/1587

CASE NO. 20906

Conditions & Grounds (Contd)

(d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and

(e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

(4) Any caravan that is not the subject of a signed agreement pursuant to condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

(5) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

SCHEDULE

The Park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and

FOR SCHEDULE AND REASONS FOR APPROVAL – PLEASE SEE ATTACHED SHEET

Swale House, East Street
Sittingbourne, Kent ME10 3HT
DX59900 Sittingbourne 2
Phone: 01795 424341
Fax: 01795 417141
www.swale.gov.uk

Swale BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/11/1587

CASE NO. 20906

Schedule (Contd)

4. Require caravan users to provide new documentation if they change their main residence; and

5. Send all written communications to the main residence of the caravan user; and

6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and

7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and

8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

Reason for Approval

Having taken all material considerations into account and subject to compliance with the attached conditions and schedule, although the proposal would not be in accordance with the development plan, it would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience and, in light of the recent Council policy decision in relation to the occupancy periods at holiday parks, is acceptable as a matter of principle. In resolving to grant permission, particular regard has been had to the following policies: E1, E6, B6 and B7 of the Swale Borough Local Plan 2008; and the Council's Corporate Policy on Holiday Homes.

Dated: 3rd February 2012

James Freeman
Head of Planning

SW / 11 / 1587

Planning Application

Swale Borough Council

Application Reference:

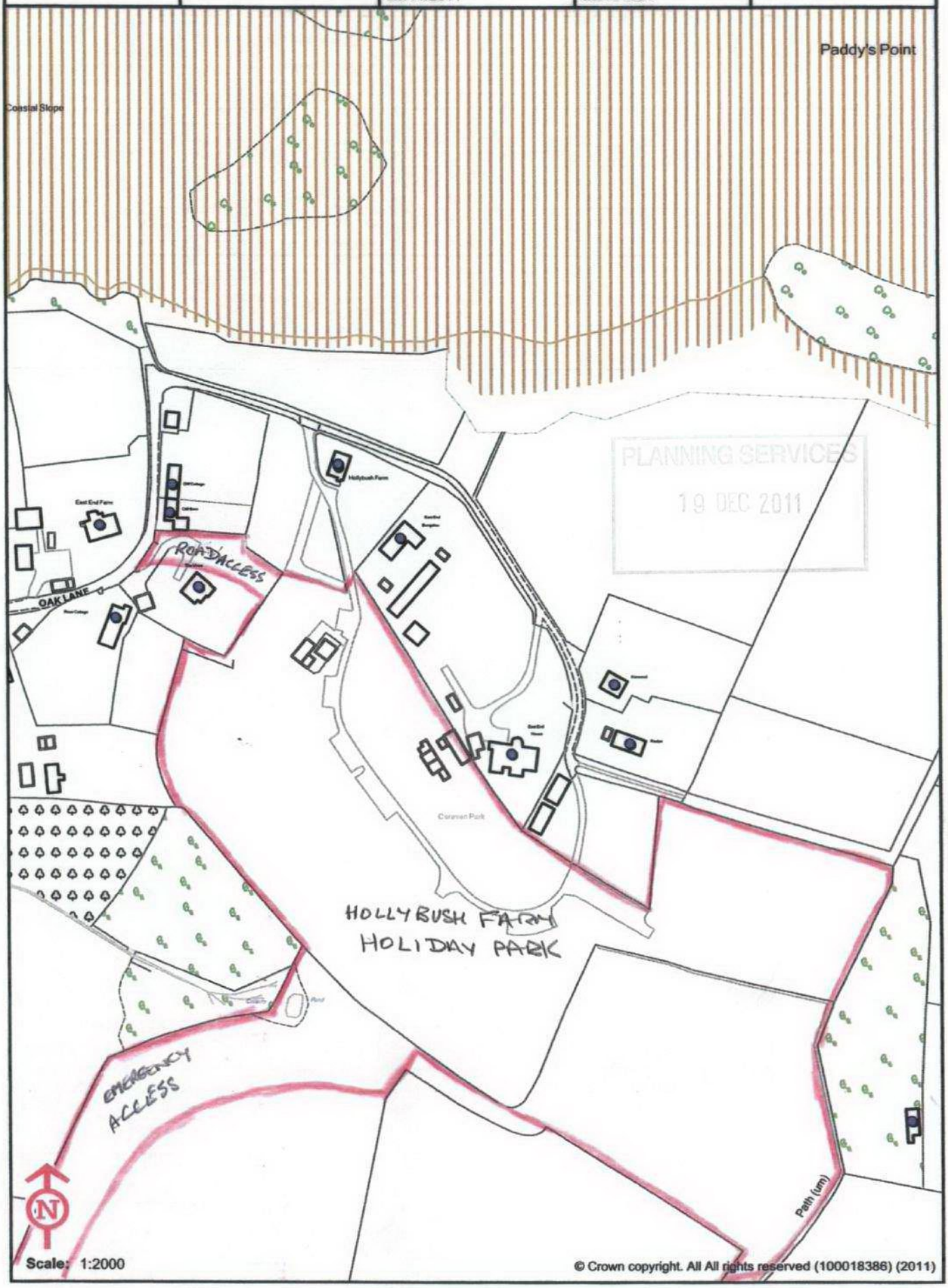
Case Number:

Drawn by: 4852

Date: 28/11/2011

Address :
HOLLYBUSH FARM
HOLIDAY PARK
OAK LANE, MINSTER
Kent
ME12 3QR

Planning Services
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent ME10 3HT



Appendix 4 - Decision Notice and Location Plan 18/502246

Lovat Parks Ltd
C/O RPS Group
FAO: Mr Peter Griffiths
20 Rps Western Avenue
Milton Park
Milton
Abingdon
OX14 4SH

23 July 2018

PLANNING DECISION NOTICE

APPLICANT:	**Lovat Parks Ltd**
DEVELOPMENT TYPE:	**Large Major Other**
APPLICATION REFERENCE:	**18/502246/FULL**
PROPOSAL:	**Removal of condition 3 (Removal of the caravans from the site on or before 31st October each year) of application NK/8/63/318.**
ADDRESS:	**Hollybush Farm Caravan Park Oak Lane Minster-on-sea Sheerness Kent**

The Council hereby **GRANTS** planning permission subject to the following Condition(s):

(1) No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:
(a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
(b) No caravan shall be used as a postal address; and
(c) No caravan shall be used as an address for registering, claiming or receipt of any state benefit; and

(d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
(e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Reason: In order to prevent the caravans from being used as a permanent place of residence.

(2) Any caravan that is not the subject of a signed agreement pursuant to condition 1 shall not be occupied at any time.

Reason: In order to prevent the caravans from being used as a permanent place of residence.

(3) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Reason: In order to prevent the caravans from being used as a permanent place of residence.

SCHEDULE

The Park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 1 of the planning permission; and

2. Hold copies of documented evidence of the caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and

3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and

4. Require caravan users to provide new documentation if they change their main residence; and

5. Send all written communications to the main residence of the caravan user; and

6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and

7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and

8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.
Where possible, suggesting solutions to secure a successful outcome.
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990.
Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant.

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPAs decision on your application, then you must do so within **28 days** of the date of this notice.

- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months** [**12 weeks** in the case of a **householder** or **minor commercial** application decision] of the date of this notice, whichever period expires earlier.

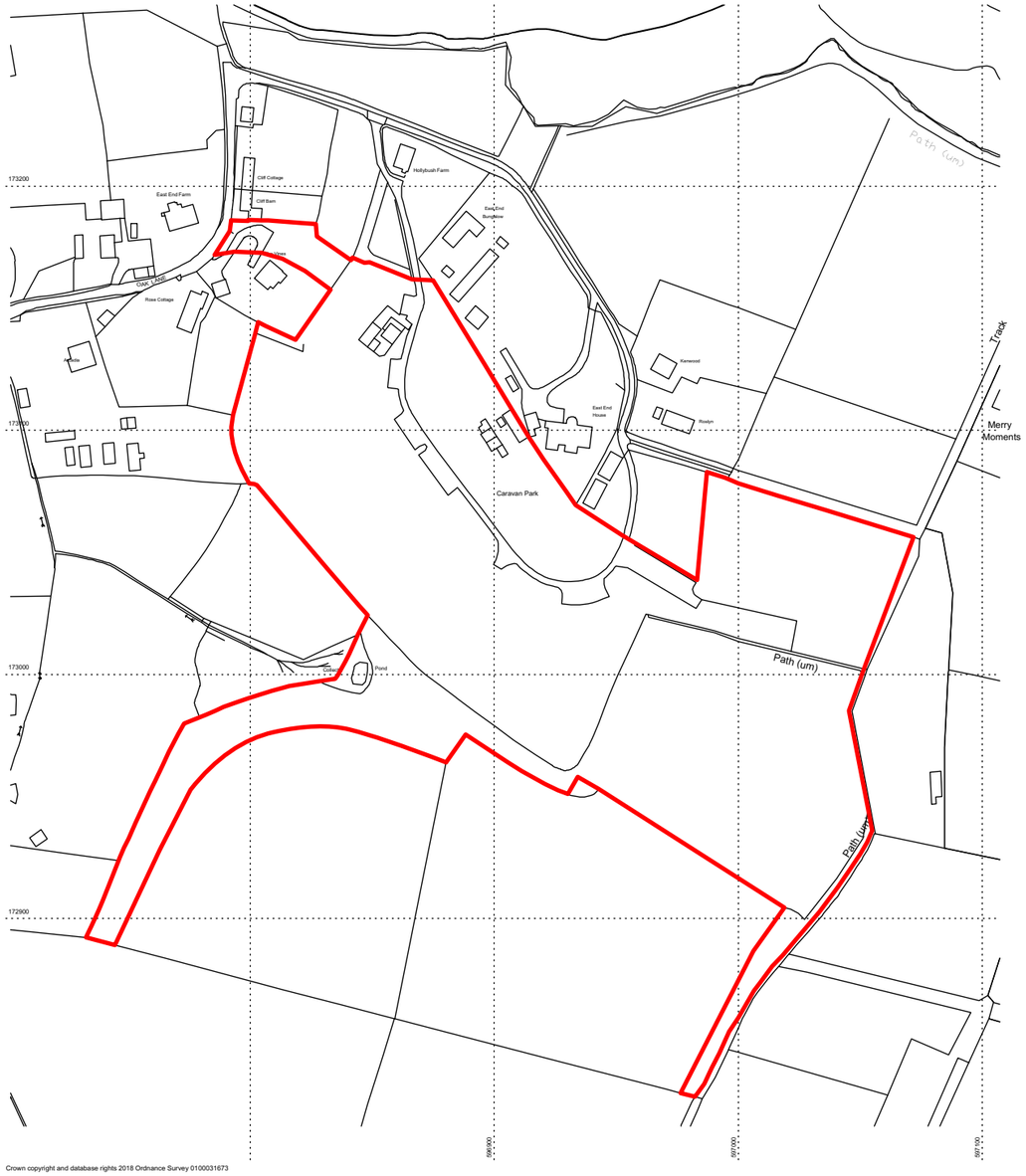
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.

- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.



Scale Bar 1:2,500 @ A3

0m 50m 100m 200m

N

Notes
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Legend

Application Boundary

Rev	Description	Date	Initial	Checked

RPS

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T: +44(0)1235 821888 **E:** rpsox@rpsgroup.com **F:** +44(0)1235 834698

Client Lovat Parks Limited

Project Hollybush Farm Caravan Park, Minster-on-Sea

Title Site Location Plan

Status	Drawn By	PM/Checked by
Draft	AJC	PG
Job Ref	**Scale @ A3**	**Date Created**
PPS1175	1:2500	April-18

Drawing Number
1175-0001-002

Rev
.

rpsgroup.com/uk

1175-0001-002.vwx

Appendix 5 - Wyre Forest District Council and SoS and Other, 1990 [2 A.C. 357]

[HOUSE OF LORDS]

WYRE FOREST DISTRICT COUNCIL . . . RESPONDENTS

AND

SECRETARY OF STATE FOR THE ENVIRONMENT AND ANOTHER . . . . . APPELLANT

1990 Jan. 15, 16; Feb. 23

Lord Bridge of Harwich, Lord Brandon of Oakbrook, Lord Griffiths, Lord Oliver of Aylmerton and Lord Lowry

Town Planning—Caravan site—"Caravan"—Permission for use of land as caravan site—Erection of chalet—Whether "caravan" within terms of planning permission bearing statutory meaning—Whether chalet "caravan"—Caravan Sites and Control of Development Act 1960 (c. 62), s. 29(1)

In 1961 the owners of a caravan site were granted planning permission for continuation of use of the land as a caravan site under the "Town and Country Planning Acts 1947–1954" and the "Town and Country Planning General Development Order 1950," article 2(1) of which had been amended by the Town and Country Planning General Development (Amendment No. 2) Order 1960 so as to insert the definitions of "caravan" and "caravan site" set out in section 29(1) of the Caravan Sites and Control of Development Act 1960.[1] The permission was granted, subject to the condition that the "consent relates to the siting of 205 caravans and no fresh structure shall be allowed on the site without the specific consent" of the planning authority. In 1985 the owners' successors in title erected a chalet on the land. Though lacking wheels, it was capable of being moved and accordingly fell within the definition of "caravan" in section 29(1) of the Act of 1960. The council, as planning authority, taking the view that the chalet was not a caravan within the ordinary and natural meaning of that word, and that the extended definition in section 29(1) was not applicable, served enforcement notices under the Town and Country Planning Act 1971, the statutory successor of the Acts of 1947 and 1954, on the ground that the chalet had accordingly been erected without planning permission and contrary to the condition in the 1961 permission. The Secretary of State allowed the site owners' appeal against the enforcement notices and, on the planning authority's appeal, his decision was upheld by the judge. The Court of Appeal allowed the planning authority's appeal.

On appeal by the Secretary of State:—

Held, allowing the appeal, that where terms or words were defined in a statutory enactment they bore the same meaning, in the absence of any indication to the contrary, in any proposals or authorisations made pursuant to that enactment; that since the definition of "caravan" in section 29(1) of the Act of 1960 had been incorporated into the General Development Order of 1950 which governed planning applications and planning

[1] Caravan Sites and Control of Development Act 1960, s. 29(1): see post, p. 361E–F.

permissions under the Town and Country Planning Acts, the term in the 1961 grant of planning permission prima facie bore the extended meaning as defined in section 29(1) so as to include a chalet; and that since, on that basis, the 1961 permission, properly construed, referred to caravans within the statutory definition and not in the ordinary sense of the word, the enforcement notices could not stand (post, pp. 359H–360C, 365E–G, 368F, 373D–F).

Cozens v. Brutus [1973] A.C. 854, H.L.(E.) distinguished.

Per curiam. Any uncertainty which exists or could be claimed to exist as to the meaning of a planning permission should be resolved by adhering to the statutory definitions which prima facie represent the meaning of the words defined (post, pp. 359H–360C, 371F).

Dicta of Lord Reid in *Slough Estates Ltd. v. Slough Borough Council (No. 2)* [1971] A.C. 958, 962, H.L.(E.) considered.

Decision of the Court of Appeal (1989) 87 L.G.R. 464 reversed.

The following cases are referred to in the opinion of Lord Lowry:

Backer v. Secretary of State for the Environment [1983] 1 W.L.R. 1485; [1983] 2 All E.R. 1021

Cozens v. Brutus [1973] A.C. 854; [1972] 3 W.L.R. 521; [1972] 2 All E.R. 1297, H.L.(E.)

Esdell Caravan Parks Ltd. v. Hemel Hempstead Rural District Council [1966] 1 Q.B. 895; [1965] 3 W.L.R. 1238; [1965] 3 All E.R. 737, C.A.

Hammond v. Horsham District Council (1989) 58 P. & C.R. 410, D.C.

Holt & Co. v. Collyer (1881) 16 Ch. D. 718

Reg. v. Kent Justices, Ex parte Crittenden [1964] 1 Q.B. 144; [1963] 2 W.L.R. 1124; [1963] 2 All E.R. 245, D.C.

Reg. v. Secretary of State for the Environment, Ex parte Reinisch (1971) 70 L.G.R. 126, D.C.

Slough Estates Ltd. v. Slough Borough Council (No. 2) [1971] A.C. 958; [1970] 2 W.L.R. 1187; [1970] 2 All E.R. 216, H.L.(E.)

The following additional case was cited in argument:

Edmunds v. Cardiganshire County Council (1969) 67 L.G.R. 528, C.A.

APPEAL from the Court of Appeal.

This was an appeal by the Secretary of State for the Environment from the order of the Court of Appeal (Dillon, Taylor and Mann L.JJ.) (1989) 87 L.G.R. 464 allowing an appeal by Wyre Forest District Council, as the planning authority, from the order of David Widdicombe Q.C., sitting as a deputy High Court judge in the Queen's Bench Division on 27 January 1988, whereby he had dismissed the council's appeal pursuant to section 246 of the Town and Country Planning Act 1971 against the Secretary of State's decision to set aside enforcement notices served on caravan site owners, Allens Caravans (Estates) Ltd., in respect of a chalet erected on their site at Wolverley, Hereford.

The facts are set out in the opinion of Lord Lowry.

John Laws and *Ian Ashford-Thom* for the Secretary of State. It is accepted that, but for section 29(1) of the Caravan Sites and Control of

Development Act 1960 and the Town and Country Planning General Development (Amendment No. 2) Order 1960 which inserted that definition into article 2(1) of the Town and Country Planning General Development Order 1950, the word "caravan" bears its ordinary meaning, which does not embrace the structure in the present appeal. However, it was the intention of the legislature that the system of planning control and the system of site licensing under the Act of 1960 should co-exist in harmony. This intention is found in particular in section 22(1) of the Act and has been the subject of judicial pronouncement. See *Reg. v. Kent Justices, Ex parte Crittenden* [1964] 1 Q.B. 144; *Esdell Caravan Parks Ltd. v. Hemel Hempstead Rural District Council* [1966] 1 Q.B. 895; *Edmunds v. Cardiganshire County Council* (1969) 67 L.G.R. 528 and *Backer v. Secretary of State for the Environment* [1983] 1 W.L.R. 1485. Ascribing a different meaning to "caravan" under each system would frustrate this intention and would dislocate the administration of the two systems of control. Accordingly, where the word "caravan" is used in the context of planning applications and permissions, the word should be given its statutory meaning under the Act of 1960 unless those using the word have clearly indicated that it is to be construed in some other way.

Clifford Joseph and *David Brownbill* for the site owners, adopting the submissions made on behalf of the Secretary of State, dealt additionally with the construction of the relevant planning applications.

John Macdonald Q.C. and *Timothy Jones* for the council. In every case it is necessary to ask what is the meaning of the words used in the planning application and grant of planning permission. Prima facie a word in a legal document should be given its ordinary natural meaning without any artificial restriction or expansion of that meaning. This is especially so in planning permissions: *Slough Estates Ltd. v. Slough Borough Council (No. 2)* [1971] A.C. 958, 962, *per* Lord Reid. *Reg. v. Kent Justices, Ex parte Crittenden* [1964] 1 Q.B. 144 makes it clear that the purpose of the Act of 1960 was to make control of caravan sites more stringent. Parliament's objective in including chalets within the definition of "caravan" in the Act of 1960 was to bring such structures within planning control. It was not to enable those who already had planning permission for caravans to obtain, instead, a wider permission for the erection of chalets. Further, the House should not assume that local authorities invariably use the word "caravan" in its statutory sense. It is frequently used in its natural meaning.

Jones followed.

Laws replied.

Their Lordships took time for consideration.

22 February. LORD BRIDGE OF HARWICH. My Lords, I have had the advantage of reading in draft the speech of my noble and learned friend Lord Lowry. I agree with it and for the reasons he gives I would allow the appeal.

LORD BRANDON OF OAKBROOK. My Lords, for the reasons given in the speech to be delivered by my noble and learned friend, Lord Lowry, I would allow this appeal.

LORD GRIFFITHS. My Lords I have had the advantage of reading in draft the speech of my noble and learned friend, Lord Lowry. I agree with it and for the reasons he gives I too would allow the appeal.

LORD OLIVER OF AYLMERTON. My Lords, I have had the opportunity of reading in draft the speech prepared by my noble and learned friend, Lord Lowry. I agree with it and would allow the appeal for the reasons which he has given.

LORD LOWRY. My Lords, the issue in this appeal is whether the word "caravan" in an application for planning permission dated 16 November 1960 and relating to what is now known as Sladd Lane Caravan site and in the grant of planning permission dated 5 December 1961 should be given its ordinary meaning or the meaning assigned by the definition contained in section 29(1) of the Caravan Sites and Control of Development Act 1960. If it has the ordinary meaning, then, as the parties agree, the enforcement notices of 3 December 1985 served by Wyre Forest District Council on Allen's Caravans (Estates) Ltd. are good and the appeal of the Secretary of State must be dismissed; but, if the word "caravan" has the meaning given to it by the Act of 1960, then the enforcement notices are bad and the appeal succeeds.

In order to understand the arguments on either side it is necessary to look at the statutory background. At the time of the planning application the relevant Act was the Town and Country Planning Act 1947, section 12 of which dealt with the obligation to obtain permission for development. Section 12(2) defined development and section 12(5) provided:

> "Notwithstanding anything in this section, permission shall not be required under this Part of this Act—(*a*) in the case of land which, on the appointed day, is being used temporarily for a purpose other than the purpose for which it is normally used, in respect of the resumption of the use of the land for the last-mentioned purpose; (*b*) in the case of land which, on the appointed day, is normally used for one purpose and is also used on occasions, whether at regular intervals or not, for any other purpose, in respect of the use of the land for that other purpose on similar occasions after the appointed day; (*c*) in the case of land which on the appointed day is unoccupied, in respect of the use of the land for the purpose for which it was last used: provided that—(i) in determining for the purposes of paragraph (*a*) of this subsection the purposes for which land was normally used and in determining for the purposes of paragraph (*c*) of this subsection the purposes for which land was last used no account shall be taken of any use of the land begun in contravention of the previous planning control within the meaning of section 75 of this Act; (ii) paragraph (*c*) of this subsection shall

A not apply to land which was unoccupied on 7 January 1937 and has not been occupied since that date."

The Town and Country Planning General Development Order and Development Charge Application Regulations 1950 (S.I. 1950 No. 728) made under the Act of 1947 contained inter alia directions for the making of planning applications.

B Sections 21 and 22 of the Act of 1960 provided:

"21. After the commencement of this Act the use of any land as a caravan site shall not be treated by virtue of subsection (5) of section 12 of the Act of 1947 as a use for which permission is not required under Part III of the Act of 1947 unless the land has been so used on one occasion at least during the period of two years ending with 9 March 1960.

C "22(1) Before a local planning authority grant permission for the use of land as a caravan site under Part III of the Act of 1947 they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power. (2) This section shall apply in relation to permission granted on an application in that behalf whether or not the application was made

D after the commencement of this Act."

(These sections were preceded by the cross-heading "Amendments of planning law in relation to caravan sites.")

Section 29(1), so far as relevant, provides:

"In this Part of this Act, unless the context otherwise requires—

E 'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—(*a*) any railway rolling stock which is for the time being on rails forming part of a railway system, or (*b*) any tent; 'caravan site' has the meaning assigned to it by

F subsection (4) of section 1 of this Act; . . ."

Section 1(4) provides:

"In this Part of this Act the expression 'caravan site' means 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."

G

(I need not trouble about section 13 of the Caravan Sites Act 1968, which dealt with twin-unit caravans and amended the definition of "caravan" in the Act of 1960.)

On the same date as the Act of 1960, 29 August 1960 (which for the sake of brevity I shall call "D-Day"), there came into force the Town and Country Planning General Development (Amendment No. 2) Order

H 1960 (S.I. 1960 No. 1476), which amended the Order of 1950 by inserting in article 2(1) thereof the Act of 1960 definitions of "caravan" and "caravan site." It also amended Schedule 1 to the Order of 1950, which listed 22 classes of development permitted under article 3 of the

Order by removing use as a caravan site from the permissions granted by article 3 and clauses IV and V and by adding new clauses XXIII (which dealt with uses as caravan sites) and XXIV (which dealt with development on licensed caravan sites).

The Town and Country Planning Act 1962 is entitled "An Act to consolidate certain enactments relating to town and country planning in England and Wales." By virtue of section 221(1) "caravan site" had the meaning assigned to it by section 1(4) of the Act of 1960. The material provisions of the Act of 1947, including section 12 (as well as sections 21 and 22 of the Act of 1960), were repealed and section 13(7) of the Act of 1962 provided:

> "Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with 9 March 1960."

On reading this subsection it becomes clear why a definition of "caravan site" was included in this consolidating statute, although no such definition had in 1960 been inserted in the Act of 1947. It is because the new section 13(7) was to perform the function which had been conferred on section 12(5) of the Act of 1947 by section 21 of the Act of 1960. This definition was carried forward into section 290(1) of the Town and Country Planning Act 1971 section 23(7) of which repeats and replaces section 13(7) of the Act of 1962.

The planning history of the site was submitted by the council. For present purposes I can start with an application made by Mr. R. Wentworth on 6 February 1958, which was an outline application for a "luxury caravan holiday centre" and was approved by the Worcestershire County Council on 2 June 1958 as an outline permission for a caravan site subject to siting, design and external appearance of the caravans and subject also to additional conditions one of which was: "(b) That the site be used for the stationing of genuine mobile trailer caravans for holiday purposes only."

On 3 April 1958 Mr. Wentworth made an application for the siting of 50 trailer caravans. This was approved by the county council on 3 July 1958 subject to conditions which included:

> "1. The permission hereby granted shall expire on 31 December 1968 by which date the land shall be cleared. 2. The number of caravans on the site shall not exceed 50 without the consent of the planning authority and only genuine trailer caravans of approved design will be allowed on this site and bus bodies, tramcar bodies, railway vehicle bodies or any other type of vehicle bodies, aeroplane fuselages, or similar structures, whether on wheels or not and howsoever adapted, will not be permitted. 3. This site shall be occupied by holidaymakers only between Good Friday and 30 September in any one year."

On 16 November 1960 Kingsford Holiday Camp Ltd., Mr. Wentworth's company and the predecessors in title of Allen's Caravans,

made the application with which this appeal is concerned, to Kidderminster Rural District Council, the statutory predecessors of the council, for development which was described in the application as: "Continuation of use of existing caravan site with revised layout. Use of additional area as caravan site." This application was the subject of three different approvals by the Kidderminster Rural District Council, only the last of which (dated 5 December 1961) was produced as an exhibit.

(1) The application was initially approved on 25 April 1961, comprising 205 caravans and subject to the following conditions:

> "1. The permission hereby granted shall expire on 31 December 1968 by which date the caravans shall be removed and the use of the land as a caravan site shall be discontinued. 2. This permission shall allow for the use of the land as a holiday caravan site only. 3. A tree planting scheme shall be carried out to the satisfaction of the local planning authority before 31 March 1962."

An appeal was lodged with the Minister of Housing and Local Government against conditions 1 and 3, but in the terms of the appeal notice the Minister was informed of negotiations taking place between the appellant and the local planning authority. These negotiations led to:

(2) A second approval of the application on 7 November 1961 subject to eight conditions the first of which was: "1. This permission shall allow the use of the land as a holiday caravan site only during the period 1 March—31 October in each year."; and

(3) A third approval dated 5 December 1961, in which the period specified in condition 1 was amended to read 1 February—31 December. The other seven conditions were the same as in the second approval and included:

> "2. This permission applies only to the land edged in red on the plan submitted with the application and the site shall be laid out in accordance with the plan. 3. No structures shall be used for all-the-year round living accommodation. 4. This consent relates to the siting of 205 caravans only and no fresh structure shall be allowed on the site without the specific consent, in writing, of the planning authority."

This third and last permission was accepted in substitution for those preceding it and the appeal to the Minister was thereupon withdrawn.

At this point I would recall that Mr. Joseph, for Allen's Caravans, advanced before your Lordships for the first time a supplemental argument that, since there could not properly by three permissions granted in respect of one application, the council had exhausted its power when granting the permission dated 25 April 1961. Therefore, he contended, there must have been a new application which became the subject of the permission dated 5 December 1961 and the terms of that permission (videlicet, "the council hereby permit development comprising 205 caravans" etc.) made it probable that the new application had been not "for confirmation of use of existing caravan site" but "for

development comprising 205 caravans," a fact which removed any obstacle that might otherwise be thought to stand in the way of construing "caravan" in its statutory sense. Your Lordships, however, in the absence of any evidence of a second or third application, considered that such a submission at such a stage in the proceedings could not in the face of the council's summary of the facts be realistically sustained. Respectfully expressing my own view to the same effect, I would also point out that not only the December 1961 permission but also the permission given in April in response to the November 1960 application was stated to be "for development comprising 205 caravans."

In June 1985 Allen's Caravans erected a chalet structure on the site which, as is common ground, is a caravan within the meaning of the Act of 1960 but is not a caravan within the ordinary meaning of that word. On 3 December 1985 the council served on Allen's Caravans two enforcement notices under the Act of 1971 requiring the removal of the chalet structure on the grounds (as stated in one notice) that it had been erected in breach of condition 4 in the planning permission dated 5 December 1961 and (as stated in the other notice of the same date) that the chalet structure had been erected without planning permission. Allen's Caravans appealed against the enforcement notices under section 88 of the Act of 1971 and in the case of each notice the issue for determination was the same, namely, whether the planning permission allowed the erection of "caravans" (up to a maximum of 205) as defined by the Act of 1960, in which event the erection of the chalet structure was lawful, or only allowed the siting of caravans in the ordinary sense of that word, in which event the erection of the chalet structure was unlawful.

The Secretary of State's inspector allowed the appeal. The council then appealed to the High Court under section 246 of the Act of 1971 and the appeal was dismissed by Mr. David Widdicombe Q.C., sitting as a deputy High Court judge in the Queen's Bench Division. The council then, by leave of the deputy High Court judge, appealed to the Court of Appeal (1989) 87 L.G.R. 464 which allowed the appeal and refused leave to appeal to your Lordships' House. This House, however, gave the Secretary of State leave to appeal on condition that he did not seek to disturb the order as to costs below and that he pay the costs of the council in this House. Thus the question falls to be resolved by your Lordships.

The Secretary of State and Allen's Caravans have contended that, by virtue of sections 1(4), 21, 22 and 29(1) of the Act of 1960 and the amendments introduced into the Order of 1950, with effect from D-Day the expressions "caravan" and "caravan site", when used in planning applications and planning permissions, have (at least prima facie) the meaning assigned to them by the Act of 1960. They support this argument, which found favour with the inspector and the deputy High Court judge, by pointing to the close link between general planning control and the Act of 1960 requirement to obtain licences for caravan sites which is illustrated by a number of statutory provisions including sections 3, 4, 16(1)(*b*), 17, 18, 20, 21 and 22 of the Act of 1960 and is noted in such cases as *Reg. v. Kent Justices, Ex parte Crittenden* [1964] 1

Q.B. 144 and *Esdell Caravan Parks Ltd. v. Hemel Hempstead Rural District Council* [1966] 1 Q.B. 895. They also rely on the absence from the planning permission granted on 5 December 1961 of any restrictions on the type of caravans permitted such as are found in the permissions dated 2 June and 3 July 1958, which in turn referred to "genuine mobile trailer caravans" and "genuine trailer caravans of approved design." They submit that to ascribe different meanings to the expressions in question under the planning system and the caravan site licensing system would dislocate the two systems of control and that the word "caravan," when used in a planning context, must be given its statutory Act of 1960 meaning unless there is a clear indication to construe it otherwise.

Both Mr. Macdonald and Mr. Jones, for the council, advanced as their main general argument the proposition that the word "caravan" in a planning application submitted, or in a planning permission granted, at any time either before or after D-Day prima facie meant a caravan in its ordinary, popular sense and not a caravan as defined by section 29(1) of the Act of 1960, regardless of the fact that the application and permission were, respectively, submitted and granted under the Act of 1947 and the Order of 1950 (as amended in 1960) or their modern equivalents and uninfluenced by the use of forms which indicated the statutory code under which the application and grants of permission were made: those considerations made no difference and, as Mr. Jones put it, the idea that an ordinary word like "caravan" should bear the same meaning in a planning application as the meaning assigned to that word in the Order under which the application was submitted was a "novel doctrine."

My Lords, I have to say that I regard the council's proposition as quite untenable: if Parliament in a statutory enactment defines its terms (whether by enlarging or by restricting the ordinary meaning of a word or expression), it must intend that, in the absence of a clear indication to the contrary, those terms as defined shall govern what is proposed, authorised or done under or by reference to that enactment. If after D-Day, there being no relevant planning history, an owner has submitted an application to use his land "as a caravan site for 50 caravans" and, the planning authority having granted permission without imposing any restriction on the type of caravan allowed (I am not for the moment thinking of conditions as to colour, design or layout), stations on the site something which is a caravan as defined by the Act of 1960, although not a caravan in the ordinary sense, could the planning authority then serve a good enforcement notice requiring the landowners to remove the unauthorised structure from the site? I scarcely think so, yet that would be the consequence of accepting the council's argument. It would also seem to follow from this reasoning that, in order to be able to bring statutory caravans onto the site, a developer must seek *express* permission for "caravans as defined in the Order under which this application is made." The council's written case makes this point by saying that any planning authority or applicant can specify that "caravan" means the word as defined in the Act of 1960 if this is intended and by arguing that "the appellant's case involves adding to the planning application and the planning permission the following words: 'as defined in the Caravan Sites and Control of Development Act 1960.' "

Then counsel strongly relied on *Cozens v. Brutus* [1973] A.C. 854 in which an anti-apartheid demonstrator disrupted a tennis match at Wimbledon and was charged with insulting behaviour contrary to section 5 of the Public Order Act 1936. They submitted by analogy that a word like caravan in a legal document such as a planning application or a planning permission should (as in *Cozens v. Brutus*) be given its ordinary, natural meaning without any artificial restriction or expansion of that meaning. This argument, however, disregards the obvious fact that in *Cozens v. Brutus* the choice was between the ordinary meaning of "insulting behaviour" and the forced and unnatural meaning adopted by the court below, whereas here the choice is between the ordinary meaning of the word "caravan" and its meaning as defined by the relevant Act and Order. The case therefore does not assist the council because it is not relevant to the point in issue. The same can be said of *Holt & Co. v. Collyer* (1881) 16 Ch.D. 718 (mentioned in the council's printed case), which was concerned with the alleged breach of a restrictive covenant in a lease and with the primary and secondary meanings of the word "beerhouse." The council also based an argument on the contention that members of the public on reading a developer's notice of application would believe that the notice referred to ordinary caravans and so might not object to the development. This argument, apart from any other infirmities, is founded on the debatable assumption that the anxieties of potential objectors would be allayed by the consoling reflection that only trailer caravans were involved.

Finally, in support of the council's main general argument, Mr. Jones relied on *Hammond v. Horsham District Council* (1989) 58 P. & C.R. 410. The appellant, who had been accustomed to travel the country with his family, decided to settle down and bought a piece of land on which he stationed a twin-unit mobile home which had been designed to comply with the measurements laid down in section 13 of the Caravan Sites Act 1968. The appellant lacked the proper bolts but fixed the two halves of the mobile home together as tightly as he could, leaving a gap of 2.5 cm., which meant that the home as erected exceeded the maximum permitted width by 2.4 cm. An enforcement notice had been issued which prohibited the unauthorised use of the land as a caravan site and required the removal of all caravans. The council instituted proceedings against the appellant for breach of the enforcement notice. His defence before the magistrates was that the mobile home, because it exceeded the width permitted by section 13, was not a caravan, but the magistrates accepted the council's argument that the mobile home was a caravan since it complied with section 13 when properly erected as intended by the manufacturers. The appellant was convicted and appealed by case stated. The headnote shows what happened in the Divisional Court, which did not answer the questions put but remitted the case to be determined in the light of the court's opinion:

> "Held, remitting the case back to the justices, the approach adopted by both parties before the justices was wrong. It was fallacious to assume that the Caravan Sites Act 1968 applied to the case. Although the Act of 1971 adopts for certain purposes the definition of 'caravan site' contained in the Act of 1968, there was no such

definition of 'caravan' in like manner. The enforcement notice was to be construed according to the language used, not in accordance with some assumed or presumed intention on the part of the draftsman. There was no evidence that the local planning authority in using the term 'caravan site' or 'caravan' in the enforcement notice in this case intended that it should be used as a term of art. Accordingly, the justices should only have been concerned with whether such use as the appellant had made of the land at Cousins Copse was use as a caravan site. This meant that if they were satisfied that it was used for the appellant's mobile home, then the only live question before them was whether the mobile home was properly to be regarded, in the ordinary use of language, as a caravan."

I feel bound to say that the Divisional Court (almost inevitably, when one recalls that both sides had prepared their arguments on what I would have regarded as the justifiable assumption that the statutory definitions held sway) seems to have lacked the benefit of the detailed examination of the statutory provisions with which counsel in this appeal have provided your Lordships. For example, I can find no reference in the judgment of Leggatt J. in *Hammond's* case to the close link between the Planning Acts and the Act of 1960 or to the unqualified incorporation for general purposes of the 1960 definitions of "caravan" and "caravan site" in the General Development Order of 1977 made under the Act of 1971.

The most significant portions of that judgment for present purposes are as follows, at p. 413:

"When the case was called before us, on behalf of the appellant Mr. Mould accordingly expected that he would have to deal principally with the width of the mobile home. However, in consequence of questions put to him by the court, he was obliged to consider first whether the width of the caravan had anything to do with the question which ought properly to have been considered by the justices. The fallacy of the approach adopted by both parties would appear to be the assumption that the Caravan Sites Act 1968 applied to the case. The best that counsel for either party was able to do in this court in seeking to suggest that the definition contained in the Act of 1968 should be treated as material was this. The enforcement notice was made under the Town and Country Planning Act 1971. That Act expressly adopts for certain purposes the definition of 'caravan site' contained in the relevant Caravan Sites Act 1960. That definition corresponds with the definition which I have read from the Act of 1968. Accordingly it is suggested that when one finds an enforcement notice which itself is issued under the Act of 1971 one ought to proceed on an assumption that the use of the term 'caravan site' will bear the same connotation as in the definition sections of the Caravan Sites Acts, which are adopted in the Act of 1971 by reference, direct or indirect. It seemed to us, however, when that argument was relied upon in this court, that it would lead to unsatisfactory results in law. The first objection to

the reasoning must plainly be that even if the term 'caravan site' were to be treated as having been adopted in the fashion that I have indicated from the Caravan Sites Acts themselves, there is no definition of the term 'caravan' which has in like manner, or at all, been adopted for purposes of the enforcement notice."

At p. 414, after referring to *Backer v. Secretary of State for the Environment* [1983] 1 W.L.R. 1485:

"It is to be observed in that case that the deputy judge concluded that the local planning authority had used the term 'caravan' as a term of art when they used it in the enforcement notice. It seems to me that that is a very dubious approach to adopt when construing an enforcement notice. One must construe it according to the language used, not in accordance with some assumed or presumed intention on the part of the draftsman. In any event, in the present case there is no such evidence that the local planning authority in using the term 'caravan site' or 'caravan' in the enforcement notice with which we are concerned, intended that it should be used as a term of art. . . . It is quite plain from the language of the enforcement notice that there was no attempt made in using the terms 'caravan' or 'caravan site' to confine them to any particular definition, whether culled from the Caravan Sites Act or elsewhere. It follows that when the justices in the present case were concerned with the question whether Mr. Hammond had acted in contravention of the enforcement notice they should only have been concerned with the question whether such use as he had made of the site at Cousins Copse was use as a caravan site. Dissecting that question, if they were satisfied that he had used the land as a site for his mobile home, then the only question live before them ought to have been whether his mobile home was properly to be regarded, in the ordinary use of language, as a caravan. That, however, was not, for reasons I have explained, the question which the magistrates considered."

My Lords, I have to say that none of the foregoing observations dissuade me from the view that the terms "caravan" and "caravan site," when used at any time since D-Day in a formal document under the Planning Acts, prima facie have the meaning which they are given by the Act of 1960 as amended.

This brings me to the council's second argument (which was put forward as supporting, and supported by, the main argument) that the word "caravan" in the planning application and the planning permission, properly construed, meant a caravan in its ordinary, popular sense. This submission, of course, can stand up by itself and indeed, subject to what I shall say later about planning principles, is a more tenable and attractive proposition than the main argument. But the second argument, if I am right so far, has now to be considered on the basis that prima facie in planning applications and planning permissions the terms "caravan" and "caravan site" bear their statutory meanings. The party who contends for the ordinary meaning must therefore show in each particular case that that is the right meaning.

A What the developer sought in November 1960 was "continuation of use of existing caravan site with revised layout. Use of additional area as caravan site." Counsel argued that, since the current use of the existing caravan site had been use as a caravan site on which were stationed 50 trailer caravans, "continuation of use" involved continuing to use the site in the same way, that is, for the same kind of caravans, with the layout altered and the permitted number extended to 205 B (changes which would necessitate an application for planning permission, even if the type of caravan remained the same). They referred in support to the plan submitted with the application, on which caravans or caravan spaces were without exception represented by "thin rectangular outlines" in the shape of ordinary caravans and to condition 2 of the permision which said, as your Lordships will recall:

C > "This permission applies only to the land edged in red on the plan submitted with the application and the site shall be laid out in accordance with the plan."

Counsel also pointed to the dichotomy, as they called it, between the words "caravan" and "structure" in the planning permission as indicating that the planning authority was keeping clear of the statutory definition D of "caravan" under which all "caravans" including ordinary caravans, were classified as structures.

As against these arguments:

1. In a situation where the word "caravan" prima facie had its statutory meaning the planning authority did not see fit to restrict development to trailer caravans. This was in contrast to the express E insistence on trailer caravans in both of the permissions granted in 1958 at a time when none but ordinary caravans would have been accepted as "caravans." One can therefore say that both in 1958 and in 1961 the effect of the permission was simply to restrict development to the kind of caravans that would in each of those years have been recognised as lawful. It would therefore be surprising to find no express restriction in the 1961 permission if the planning authority's intention had then been F to restrict the permitted type of caravan to ordinary caravans by excluding a type of "caravan" which by then constituted lawful development.

2. The reference to "continuation of use" should not (because it need not) be construed so as to confine the proposal to ordinary caravans and exclude "caravans" which were then prima facie lawful.

G 3. The outlines on the plan were consistent with the stationing of "caravans" of non-trailer type, this helps to show that the word "caravan" is not by virtue of the plan confined to its ordinary meaning.

4. The expressions "layout" and " laid out" signify the way in which the caravans are to be placed and distributed on the site and not the type or shape of caravan proposed or permitted and condition 2 should be construed accordingly.

H 5. Condition 2 was not relied on in the enforcement notice, although condition 4 was expressly alleged to have been breached.

6. It is debatable whether the alleged contrast between "caravan" and "structure" exists but, rather than explore that question I would

give a shorter answer: the contrast relied on does not serve to narrow the meaning of "caravan" to "ordinary caravan." I cannot, incidentally, entertain the proposition that, by contrasting "caravan" with "structure," the planning authority showed that it was consciously avoiding the statutory definition. On that assumption it would again be difficult to believe that the planning authority would have failed to impose an express restriction on the type of caravan to be allowed. It is equally unlikely that the authority charged with the duty of overseeing development would in 1961 have forgotten or disregarded the statutory definition in the Act of 1960.

The arguments on either side should also be considered in the light of an important principle of planning law: a planning permission is not a mere personal licence granted to the applicant but can be said to run with the land. A purchaser of land has an interest to know what development is permitted thereon but neither the planning application (if available) nor the planning permission will reveal the history of the use of the land. How then can the document granting permission best be construed?

In *Slough Estates Ltd. v. Slough Borough Council (No. 2)* [1971] A.C. 958, 962, Lord Reid made the following observations:

> "My Lords, for the reasons given by my noble and learned friend, Lord Pearson, I would dismiss this appeal. But I wish to add a few observations about a question of law which is involved. The appellants argued that in construing the planning permission with which we are concerned it is proper to have regard to all relevant facts known to the planning authority when the permission was given—in this case correspondence which had passed between the parties. We did look at this correspondence before deciding whether it was admissible, and in my view it does not help the appellants so it is unnecessary to reach a decision. But as the matter was argued and is of general importance I think I should state my opinion.
>
> "It is well settled that the court in construing a will or a contract must put itself in the shoes of the testator or the parties by admitting in evidence all relevant facts known at the time by the testator or by both the parties. But in my view it does not at all follow that the same applies to a public document. It could not possibly apply to a Minister making a statutory instrument. How far can it apply to a written grant of planning permission? This is available to purchasers from the person who originally obtained the permission. They may have no means of discovering what facts were known to the planning authority. It is true that the person who originally obtained the permission would be likely to know. But the question may arise after many years. And it could hardly be that the permission could mean one thing in the hands of the original owner and something different in the hands of a purchaser from him.
>
> "There is not much authority on the matter. We were referred to two cases. In *Miller-Mead v. Minister of Housing and Local Government* [1963] 2 Q.B. 196 the permission granted was, if its

words were given their ordinary meaning, wider than what had been asked for in the owner's application. But it was held not proper to use the application to cut down the ordinary meaning of the permission. On the other hand, in *Sussex Caravan Parks Ltd. v. Richardson* [1961] 1 W.L.R. 561 there are observations by Harman L.J., at pp. 566–567, to the effect that in construing an entry in a valuation list it is permissible to have regard to extrinsic evidence and the appellants relied on them. They were not essential to the decision and are not supported by the judgment of Holroyd Pearce L.J.

> "Of course, extrinsic evidence may be required to identify a thing or place referred to, but that is a very different thing from using evidence of facts which were known to the maker of the document but which are not common knowledge to alter or qualify the apparent meaning of words or phrases used in such a document. Members of the public, entitled to rely on a public document, surely ought not to be subject to the risk of its apparent meaning being altered by the introduction of such evidence."

And in *Reg. v. Secretary of State for the Environment, Ex parte Reinisch* (1971) 70 L.G.R. 126, 132 (a case relied on by the council to show that a plan may be a guide to the meaning of a planning permission) Lord Widgery C.J. said:

> "Planning permissions are not construed by the canons appropriate to contracts; the intention of the parties, which is all important in the construction of a contract, has little meaning in the construction of a planning permission. A planning permission is effective if it so accurately describes the development to be carried out that anyone taking the permission and its accompanying plans and applications to the land together will be able to see, without doubt, precisely what it was which had been authorised."

Therefore, in a case like the present, any uncertainty which exists or could be claimed to exist as to the meaning of the planning permission should, it seems, be resolved by adhering to the statutory definitions which prima facie represent the meaning of the words defined.

My Lords, I turn to the judgment of Mann L.J., with which the other members of the court agreed. In the course of reciting the facts he said, 87 L.G.R. 464, 466:

> "It is to be recollected that the application to which reference is made and which can be taken into account in accord with established authority in construing the permission, was 'the continuation of use of existing caravan site.' "

(This could help the council only if the planning application on its true construction referred exclusively to ordinary caravans.)

Having set out conditions 1 to 4 of the planning permission, Mann L.J. said, at p. 466: "It is to be observed that there is a dichotomy between 'caravans' and 'structures.' " He then said: "As to 'ordinary and natural meaning' reference may be made to, for example, Viscount Dilhorne's speech in *Cozens v. Brutus* [1973] A.C. 854, 865G."

My Lords, I believe that I have already dealt sufficiently with those three points.

A later paragraph in the judgment reads, at p. 467:

> "The Town and Country Planning Act 1947, which was the primary legislation in force at the time of the planning application in 1960 and of its determination, does not refer to 'caravan' or 'caravan site' at all. Its innocence in that regard was disturbed by sections 21 and 22 of the Act of 1960, now repealed by the Act of 1962. Section 21 of the Act of 1960 provided: 'After the commencement of this Act the use of any land as a caravan site shall not be treated by virtue of subsection (5) of section 12 of the Act of 1947, as a use for which permission is not required under Part III of the Act of 1947 unless the land has been so used on one occasion at least during the period of two years ending with the ninth day of March 1960'. The purpose of that provision was to take away certain existing use rights—that is, rights existing on 1 July 1948. The Act of 1947 permitted a reversion and some temporary use and permitted occasional uses to continue and also dealt with unoccupied land."

My respectful comment is that this treatment fails to recognise the full effect of section 21 of the Act of 1960 which was in reality to add to section 12(5) some such words as: "This provision does not permit use as a caravan site, as defined by the Act of 1960, unless the land has been so used at least once during the period of two years ending on 9 March 1960." I refer again to section 13(7) of the Act of 1962 and section 23(7) of the Act of 1971 and to the definition of "caravan site" in those Acts as already noted.

Mann L.J. then dealt with the amendment by the 1960 Amendment Order of the Order of 1950 to which I have already adverted. There again I feel, with respect, that the general importance of inserting the relevant definitions into the Order of 1950 has been understated and that it is obligatory for any argument in favour of the council to deal with the addition of those definitions to the Order of 1950, which governs both planning applications and planning permissions in general, as well as catering for the particular matters noted by Mann L.J. That, in my view, has not been done.

In a passage which noted the Secretary of States' change of front in the Court of Appeal Mann L.J. then said, at p. 468:

> "The Secretary of State suggested, but withdrew the suggestion, that the application of 16 November 1960 in the terms which I have recited must be taken to have been enlarged by the change in the law effected as from 29 August 1960. I cannot accept that for a moment. An application is for what it is and is not capable of enlargement in the way suggested."

I must respectfully disagree. If my conclusion as to the soundness of the council's main argument is correct, then your Lordships are concerned not with the enlargement of the terms in an application but with the possible narrowing of their prima facie statutory meaning as defined in the Act of 1960.

Mann L.J. continued, at p. 468:

> "On behalf of the site owners"—Allen's Caravans—"Mr. Joseph, in the course of his careful argument, suggested that as from 29 August 1960 any application in regard to caravans must be considered against the background of the definition of 'caravan sites' injected into the law as from that date. For my part, and with respect, I regard that as quite unrealistic. The application was for continuation of use of existing caravan site with revised lay-out. That must have been an application which regarded caravan in the traditional or ordinary and natural meaning of the word. I am reinforced in that view by the permission in fact granted, which differentiates between caravans and structures. If it had been intended to grant a permission—which I do not think could have been granted because it would have enlarged the terms of the application—in terms of the recently introduced definition of 'caravan' it would have been easy to say so and there would have been no differentiation such as one finds in the conditions."

This paragraph, consistently with the preceding one, by necessary implication accepts the council's main point and contains a further reference to continuation of use and the dichotomy theory. The last sentence follows logically from what goes before but reverses the onus of proof which my conclusion involves. For my part, I adopt the reasoning of the deputy High Court judge which the Court of Appeal rejected:

> "In a document issued under the Town and Country Planning Act this phrase" (that is, the expression "caravan site") "must bear the meaning which it has in that Act," (I would add "and in the General Development Order") "unless there is some clear reason why it should not do so."

Like the deputy High Court judge, I can see no such reason here and therefore, I would allow this appeal.

Appeal allowed.
Secretary of State to pay council's costs in House of Lords.
Council to pay site owners' costs in Court of Appeal.

Solicitors: Treasury Solicitor; Baileys Shaw & Gillett; Sharpe Pritchard for Solicitor, Wyre Forest District Council.

C. T. B.

Appendix 6 - David Brunt Statutory Declaration

Statutory Declaration

For

Hollybush Farm Caravan Park, Minster on Sea, Sheerness ME12 3QR.

I, David William Martin Brunt of Cedarwood House, Vicarage Lane, East Farleigh, Kent, ME15 0LX, do solemnly and sincerely declare as follows:

1. My company, Portclew Limited, purchased Hollybush Caravan Park in January 2003 and sold it to the current owners in April 2018. As director of the company and responsible for all day-to-day operations at Hollybush Farm Caravan Park, I have very good knowledge of the property and how it evolved and operated during this period.

2. Over the period 1st November 2004 to 1st March 2005 extensive redevelopment of the area previously laid out to caravan bases was carried out, installing new concrete bases for modern static caravan holiday homes with new and upgraded electricity, water and drainage services supplied to each base. Additional work carried out included resurfacing internal site roads and creating additional car parking spaces for customers.

3. The redevelopment described above is illustrated in Aerial Photographs (attached at Exhibit 1) Those photographs dated 2003 and 2007 show the installation of bases and additional roadways and hardstanding areas. Whilst there were times when some of the bases were vacant (particularly between 2007 and 2015), largely due to do with customer demand, these bases were always capable of stationing static caravans with the relevant services remaining in place. From 2015 until my company sold Hollybush Farm Caravan Park in 2018, the business operated at full capacity with all bases occupied with static caravan holiday homes.

4. In March 2007 my company submitted a planning application for the construction of a new access road in to Hollybush Farm Caravan Park from Oak Lane to be located to the east of the existing access road. Planning application Reference SW/07/0345, Case No. 22594. Planning consent was granted on 29th October 2007. Construction work was carried out over the period June to August 2009 with the new access road being opened on 30th August 2009.

5. In 2011, my company submitted a Section 73 application (ref: SW_11_1587) to extend the holiday use of customers' caravans from 8 to 10 months. The red line plan ref: SW_11_1587 (attached at exhibit 2) submitted with this application, defined the extent of the caravan park as it was used then. This application was approved with the submitted red line in February 2012.

6. The areas of the property that were not used for the stationing of caravans or the necessary infrastructure such as roads, car parking etc., were used for ancillary purposes associated with the operation of the caravan park business. I refer to Exhibit 3 which shows the extent of each area and divides them in to colour coded sections.

7. The area outlined in purple was used as amenity space (e.g. for dog walking and general amenity) for customers to enjoy over the entire period of my company's ownership from 2003 to 2018. Employees of my company maintained this area, trimming grass and maintaining fences and hedges.

We permitted several customers to plant trees in memory of deceased partners as it was a peaceful area and ideal for reflection.

8. The area outlined green was used as amenity space (e.g. for dog walking, informal recreational play and general amenity) for customers to enjoy over the entire period of my company's ownership from 2003 to 2018. Employees of my company maintained this area, trimming grass and maintaining fences and hedges. This area was also used from time to time as overflow car parking. In 2008 we installed a play area for customers children consisting of swings, a slide, a sandpit and a football pitch – all of which remained in place on the date we sold the site.

9. The area outlined in yellow was used as amenity space (e.g. dog walking and general amenity) for customers to enjoy over the entire period of my company's ownership from 2003 to 2018. Employees of my company maintained this area, trimming grass and maintaining fences and hedges.

10. The area outlined in blue was used as amenity space for customers to enjoy over the entire period of my company's ownership from 2003 to 2018. Specifically, this area was used by customers as a dog walking area. Employees of my company maintained this area, trimming grass and maintaining fences and hedges.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared by David William Martin Brunt

Signature:.....

This 26th Day of April 2021

Before me!

Samuel Gary Corse FCILEx

af!

Whitehead Monckton Ltd
5 Eclipse Park. Sittingbourne Road,
Maidstone, Kent ME14 3EN

Exhibit 1

Notes
1. This drawing has been prepared in accordance with the scope of RPS's appointment with its client and is subject to the terms and conditions of that appointment. RPS accepts no liability for any use of this document other than by its client and only for the purposes for which it was prepared and provided.
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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 14/08/2003
Source: Google Earth

Rev	Description	By	CB	Date

MAKING COMPLEX EASY

20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 14/08/2003

Status	Drawn By	PM/Checked By
FINAL	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev **-**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 21/04/2007
Source: Google Earth

Rev	Description	By	CB	Date

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Project Golden Leas Minster on Sea

Title Aerial photo: 21/04/2007

Status	Drawn By	PM/Checked By
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Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 03/07/2011
Source: Wayback Imagery

Rev	Description	By	CB	Date

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20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 03/07/2011

Status	Drawn By	PM/Checked By
FINAL	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev **-**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 09/07/2013
Source: Google Earth

Rev	Description	By	CB	Date

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20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 09/07/2013

Status	Drawn By	PM/Checked By
FINAL	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev -

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 04/07/2014
Source: Google Earth

Rev	Description	By	CB	Date

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Title Aerial photo: 04/07/2014

Status	Drawn By	PM/Checked By
FINAL	BG	PG

Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev **-**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 02/03/2015
Source: Google Earth

Rev	Description	By	CB	Date

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Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 02/03/2015

Status	Drawn By	PM/Checked By
FINAL	BG	PG

Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev -

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Legend

- Site Boundary
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Date: 09/04/2017
Source: Google Earth

Rev	Description	By	CB	Date

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Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 09/04/2017

Status	Drawn By	PM/Checked By
FINAL	BG	PG

Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 26/07/2018
Source: Google Earth

Rev	Description	By	CB	Date

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Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 26/07/2018

Status	Drawn By	PM/Checked By
FINAL	BG	PG

Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02**

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 16/05/2019
Source: Google Earth

Rev	Description	By	CB	Date

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Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 16/05/2019

Status	Drawn By	PM/Checked By
FINAL	BG	PG

Project Number	Scale @ A3	Date Created
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02**

Rev -

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Legend

- Site Boundary
- Other Land under Ownership of Applicant

Date: 28/03/2020
Source: Google Earth

Rev	Description	By	CB	Date

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Client -

Project Golden Leas Minster on Sea

Title Aerial photo: 28/03/2020

Status	Drawn By	PM/Checked By
FINAL	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,250	MAR 2021

Figure Number **1175-0006-02** Rev **-**

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Exhibit 2

SW / 11 / 1587

Planning Application

Application Reference:

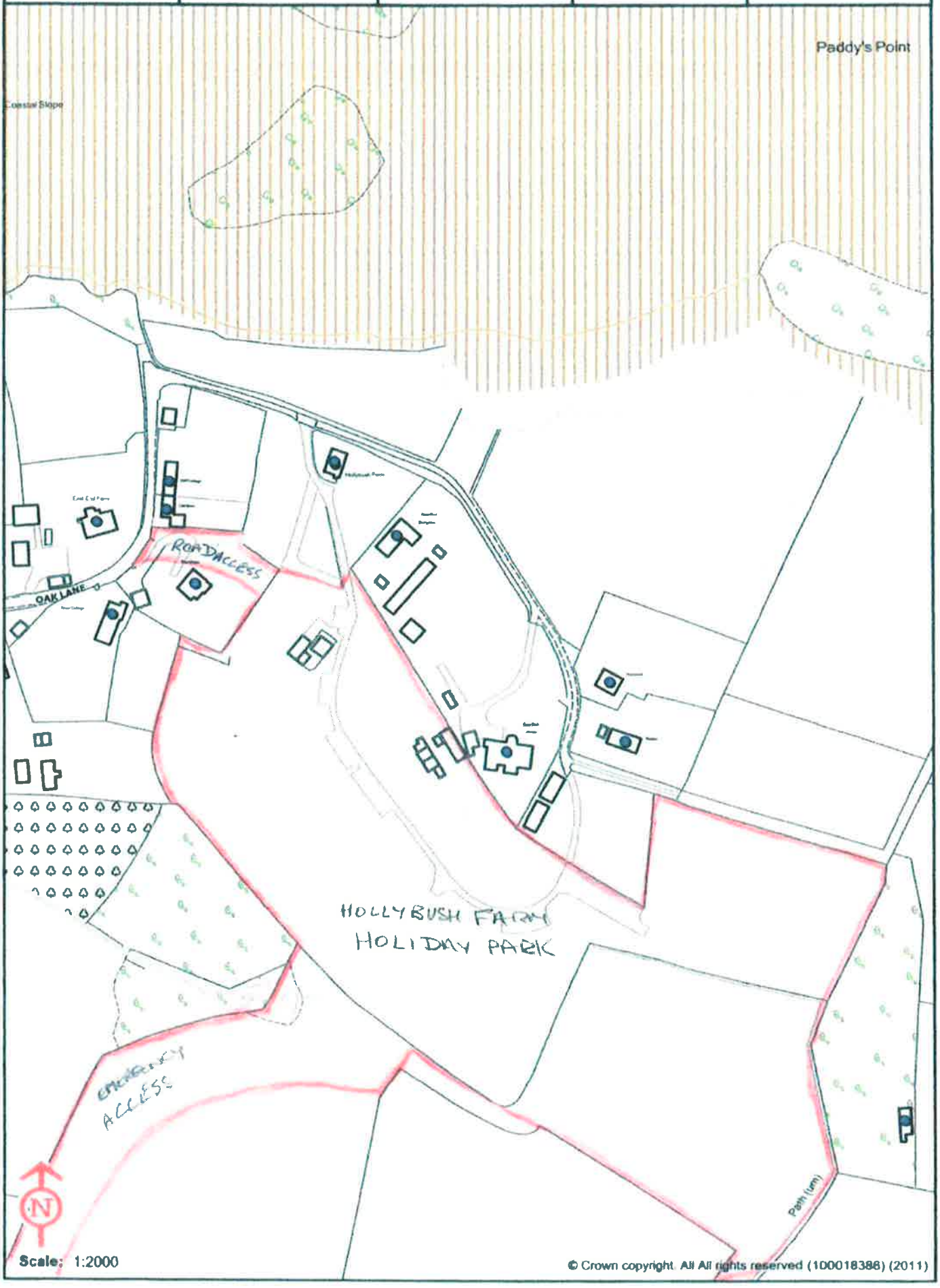
Case Number:

Drawn by: 4852

Date: 28/11/2011

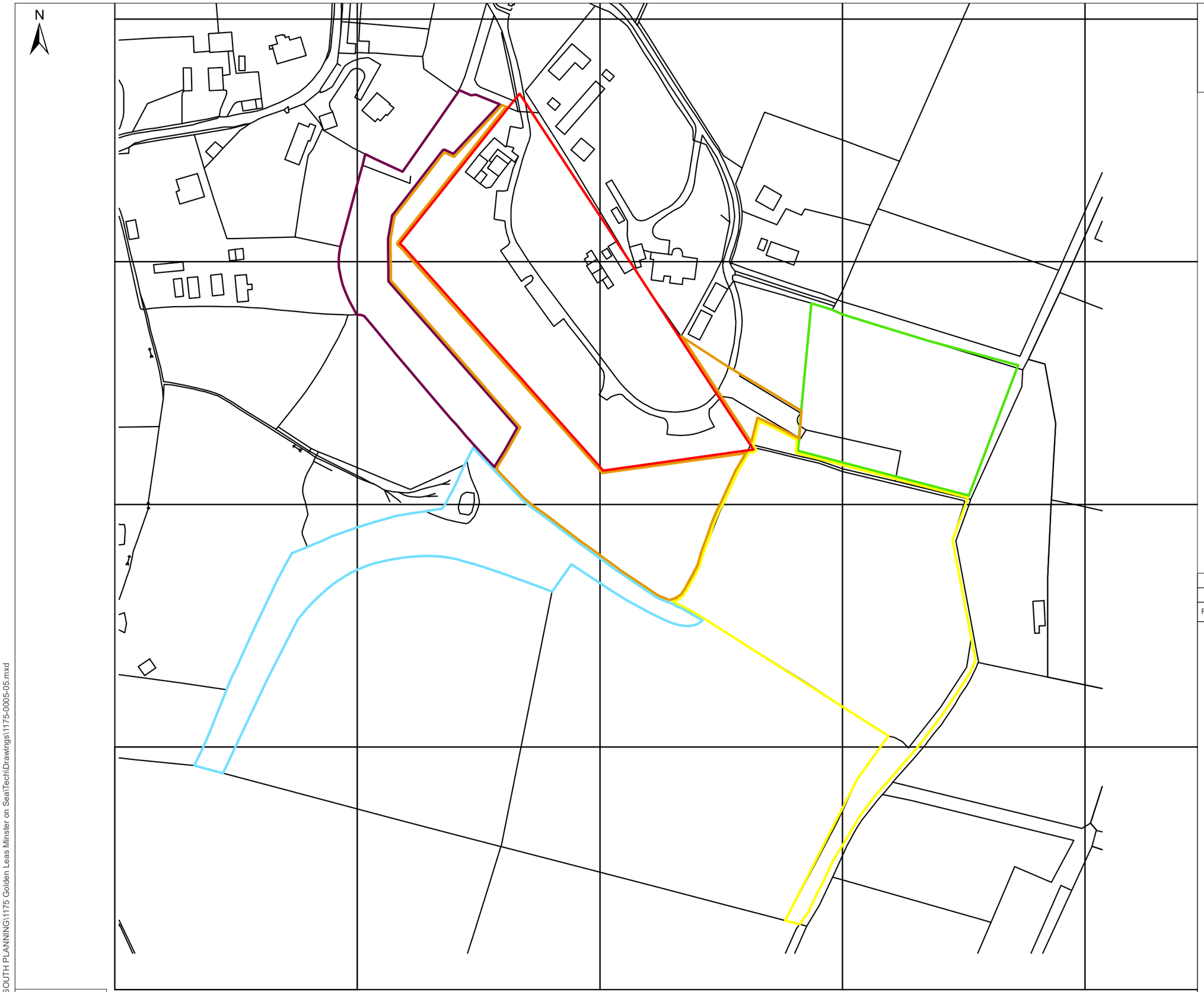
Address : HOLLYBUSH FARM HOLIDAY PARK OAK LANE, MINSTER Kent ME12 3QR

Planning Services
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent ME10 3HT



Scale: 1:2000

Exhibit 3



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Legend

Area of 1963 Planning Permission ref: NK_8_63_318

Rev	Description	By	CB	Date

MAKING COMPLEX EASY

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T: +44(0)1235 821 888 E: rpsox@rpsgroup.com

Client -

Project Golden Leas Minster on Sea

Title Breakdown of Site in Sections

Status	Drawn By	PM/Checked By
DRAFT	BG	PG
Project Number	**Scale @ A3**	**Date Created**
PPS1175	1:1,500	MAY 2021

Figure Number **1** Rev **-**

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Appendix 7 - Raoul Fraser Statutory Declaration

Statutory Declaration

For

Hollybush Farm Caravan Park, Minster on Sea, Sheerness ME12 3QR.

I, Raoul Fraser of WeWork, 2 Eastbourne Terrace, London W2 6LG do solemnly and sincerely declare as follows:

1. My company purchased the site in April 2018 and have knowledge of the site from this date to present day.

2. The caravans stationed on the site (not including those caravans subject to the recent 2019 development) were presented on the day my company acquired the site and have remained in the same layout ever since.

3. The areas of the site that were not used for the stationing of caravans or the necessary infrastructure such as roads, car parking etc., have continue to form part of the caravan site whether that be for ancillary purposes such as amenity space or for the stationing of caravans. I refer to Exhibit 1 which shows the extent of each area and divides them in to colour coded sections.

4. On acquiring the site, the area outlined in purple has continued to be used as an amenity space for customers and activities such as dog walking and general amenity take place here. I employ ground staff to maintain this area, to ensure area is well kept and fully accessible to customers.

5. The area outlined green continues to be use as amenity space for customers for recreational activities such as picnics, football and other sporting games and this was utilised up until August 2019. After this date my company redeveloped this area with 14 static caravans, which was completed in October 2019.

6. The area outlined in yellow continues to be used as amenity space for customers to utilise and activities such as dog walking and general amenity/recreation (such as picnics, football and other sporting/recreational activities) still take place here today. I employ ground staff to maintain this area, to ensure area is well kept and fully accessible to customers.

7. The area outlined in blue has continued to be used as further amenity space for customers to utilise. Like the previous owner, we keep this area mainly as a dog walking field solely for the use of customers. This area is also regularly maintained by the ground staff, in line with the other areas of the site mentioned above.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared by Raoul Fraser

Signature: .....

This 20th Day of May 2021

at 77 High Street, Sheerness Kent

Before me .....

JAMES W.D. BANCROFT
B.A. (HONS) SOLICITOR
77 HIGH STREET
SHEERNESS, KENT
ME12 1TY