Supporting Statement for certificate of lawful use as a caravan site. Oakfield Park Llay LL12 0NL

This application is submitted only because the Council has forced its submission, and is without prejudice or acknowledgement that it is actually required.

Background

Oakfield Park is a longstanding caravan site accessed from Gresford Road; a copy of the planning history is attached as Appendix A.

The park has been extended Southwards over time, and has long included a ” bungalow”; Woodville Bungalow. Woodville Bungalow could only be accessed by coming through the park from Gresford Road.

Oakfield Park lies within the defined settlement of the Urban village of Llay, and that makes it a sustainable location for further development; indeed development is taking place on the North Eastern side of Gresford Road opposite the site entrance. That development includes not only housing, but also a relatively new Aldi supermarket. Those are understood to have been green field sites previously.

The Council have issued an Enforcement Warning Notice, although the expediency of that approach has to be doubted given the background.

The origins of Woodville Bungalow are neither wholly clear.

An aerial photo of the site on 1 January 1945 shows the entire site as open agricultural land. Modern planning control was introduced on the Appointed day of 1 July 1948, and given post world war two shortages of construction materials it is unlikely that a bungalow was erected (even as a temporary facility) before the Appointed day.

It is not shown on the plan with 148/61. A copy of that 1961 plan is attached as Appendix B.

However, it is shown on the plan with 861/62. A copy of that 1962 plan is attached as Appendix C. It shows as a temporary bungalow.

It is also clearly present in 1963 because it was the subject of an application with reference WRDC 1390/63, which was granted. A copy of the decision notice for WRDC 1390/63 is attached as Appendix D. It is recognised that this was a temporary permission until 30 April 1964.

Attention is drawn to the comment at the bottom of the decision notice explaining the reason for the temporary permission; “The site is part of the curtilage of a dwelling suitable for permanent use as a caravan site.” The plan that went with that decision has not been provided. That wording may involve consideration of which dwelling

was being referred to. The dwelling could have been Woodville Bungalow, but it could alternatively have been the dwellinghouse shown close to Gresford Road on the plan with 148/61 in Appendix B. Both of those were in Oakfield Park.

It is not evident that the bungalow was removed by 30 April 1964.

On the approved plan with RD/5293 which is from early 1970 it shows as temporary bungalow. A copy of that plan is attached as Appendix E

It appears that the Council have taken the view that the Woodville Bungalow is not part of the Caravan Park because they suggest that one of the historic planning permissions did not include the site of the bungalow.

That view emanates from consideration of a plan which was the approved plan for application 14676. A copy of the decision notice granting permission for that is attached as Appendix F, and a copy of the plan is attached as Appendix G. That plan has been reproduced in black and white from microfiche of an original, but has not retained the colours from the key; however, the feint wording of the key and some other notes is still just legible. A version of that plan has been recreated and a copy is attached as Appendix H.

That permission was for “Extension to existing caravan park, construction of new footpath and diversion of existing footpath.” It is a longstanding convention that the subject matter of a planning application would be within a solid red line boundary, whilst land in the same ownership (but not the subject of the application) would be edged blue.

The plan is considered to show three areas that were the subject of referenced decisions, namely; 148/61, 861/62 and 5293, but it also included the access from Gresford Road, Woodville Bungalow, two shapes (which are understood to be 16 and 17 Bannister Drive) and the construction of the new footpath and the route of the footpath that was already present, but which was being diverted.

Clearly it was not necessary to apply to extend the caravan site on any of the three areas already marked with the existing permission references, so the extension of the site being applied for had to be the part of the site with Woodville Bungalow, 16 and 17 Bannister Drive and the areas at the Southern boundary of the site with the realigned footpath. That is also within a boundary with a solid line.

Hence the three areas annotated with existing permission references would have been edged blue, or were not part of what was applied for whilst the rest of the site would have been edged red as the application site.

This decision therefore did grant permission for Woodville Bungalow to be part of the extended caravan site.

That undermines the Council contention.

The Council has taken no issue with all the caravans being part of the Caravan site. The Council also appears to have taken little notice of the permission with reference WRDC 1390/63, which was granted, nor the several references on several plans to Woodville Bungalow as a temporary feature.

If the above analysis of the plan with 14676 is not correct, then the continuing presence of Woodville Bungalow until at least 30 January 2022 has either been a breach of planning control involving operational development, or a change of use, or a breach of the condition requiring its removal by 30 April 1964. Applying up to date periods of immunity from planning control introduced in 1992 would mean that it was immune by at least 2002.

Alternatively its recent removal may have honoured condition 1 of the 1963 planning permission, but that same condition implied the land and curtilage on which it stood was acceptable as a caravan site.

Although the site has only recently been in the ownership of Best Holdings (UK) Limited, Mr Alfie Best has known the site for many years.

A copy of the HM Land Registry title and plan are attached as Appendix I.

The title shows that the ownership is a single title that includes all parts of the Caravan Site; previous ownerships were Flannigan Enterprises Limited (from 21 October 2013) and Anthony James Barney (from 3 May 1985) prior to 1985 the owner was Rowland Llewelyn Parry.

That information tallies with what is available from Council planning records; the decision notice for 14676 records the applicant as Mr A J Barney in late 1987 (Copy as Appendix F) The decision notice for 10575 records the applicant as R L Parry Esq in early 1984 (Copy as Appendix J) The decision notice for 5293 records the applicant as Mr. R, L, Parry in early 1971 (Copy as Appendix K).

Mr R L Parry was also the applicant for 861/62 and 148/61.

The Council may have the ownership certificates that go with those applications, but they are not presently visible on the website.

Definitions

Caravan and Caravan Site

A caravan and a caravan site have a statutory definition contained in the Caravan Sites and Control of Development Act 1960 section 29(1) as extended by the Caravan Sites Act 1968 section 13. The result is that ‘caravan’ includes both:

a. 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; and

b. Such a structure which is 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), subject to the restrictions on dimensions contained in the Caravan Sites Act 1968 section 13(2) as modified by the Caravan Sites Act 1968

A caravan site has the meaning as defined in the 1960 Act 1960 Act s1(4) 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.

Planning Unit

Relevant considerations in identifying the planning unit are those set out by Bridge J in Burdle. (Burdle (and another) v. Secretary of State for the Environment (and another) [1972] 1 WLR 1207) The site has long been in single ownership as set out above.

The pertinent question is then whether the site that has been occupied by Woodville Bungalow constitutes a physically separate and distinct area occupied for substantially different and unrelated purposes. If the Bungalow was not occupied for substantially different and unrelated purposes to the ‘wider’ area then it is not a separate planning unit, but is part of a planning unit comprising the ‘caravan park’ planning unit.

The applicant submits that the area occupied by Woodville Bungalow and the area occupied by what are now units 16 and 17 Bannister Driven have not been occupied for purposes which are “substantially different and unrelated” to the ‘wider’ caravan park. Since 21 October 2013, at least, they have been in single ownership, now owned and occupied by Best Holdings (UK) Limited. There is no different (let alone substantially different) or unrelated purpose for which they have been used. Woodville Bungalow was understood to have been occupied by individuals employed at Oakfield Park.

Woodville Bungalow was not physically separate as it could not be accessed whether by foot or in a vehicle other than by traversing the park from Gresford Road. The address of Woodville Bungalow regularly references Oakfield Park. The plot of Woodville Bungalow may have had some boundary features such as low fences or hedges, but is no different in that regard to similar such treatments between the caravan pitches.

Aerial photos

Sometimes aerial photos can be very useful in understanding the planning history of a site, and confirming its use. In this case the whole site was apparently agricultural land in 1945, but the planning history reveals no date or circumstances for the erection of Woodville Bungalow. An aerial photo of 1985 is too blurred to be of any assistance and the first clear aerial photo is in 2006. However, the planning history in Appendix A has already recognised the presence of Woodville Bungalow from 1962 as explained above.

Accordingly, this application simply seeks to show that the entire site edged red is a caravan site as defined, contains caravans that are used for human habitation and land used in connection with the caravans.

Attached as Appendices are aerial photos of the following dates; 22 July 2012 as Appendix L, 27 June 2018 as Appendix M, 25 June 2020 as Appendix N, 07 September 2021 as Appendix O, 30 January 2022 as Appendix P, and 25 January 2023 as Appendix Q.

The Council's only apparent issue is a suggestion that Woodville Bungalow, and certain other land, were excluded from the red line boundaries of what has been granted planning permission. That is not accepted as explained in detail above.

It is noted that the Council has not indicated a planning reference for the first construction of Woodville Bungalow which likely must have been since the Appointed Day of the Planning Acts in 1948.

Even if no planning permission was obtained for Woodville Bungalow or 16 and 17 Bannister Drive, or the site that they all have occupied they have all been present for in excess of ten years such that an immunity from planning control has been gained.

The Bungalow has been demolished in compliance with the requirements of the Site Licence, and hence was an exempt demolition.

The Council's Planning Enforcement Officer has also suggested that there is a numbers condition controlling the total numbers of caravans that can be stationed at the site. Consideration has been given to that contention.

In the judgement of Cotswold Grange [2014] EWHC 1138 (Admin) the courts considered the enforceability of an implied term within a condition. The court rejected any concept of an implied term within a condition reflecting the line of authorities which followed from I'm Your Man Limited v Secretary of State for the Environment [1998] EWHC 866 (Admin). The judgement of I'm Your Man related to a reference in the description to a temporary permission but no condition was attached to reflect the temporary period. The judgement of R (Altunkaynak) v Northamptonshire

Magistrates' Court [2012] EWHC 174 (Admin) discussed the enforceability of a reference to a premises being used as an extension to another premises as opposed to a separate unit, the judgement identified;

"The relevant principle, drawn from the wording of the statute, is a general one: if a limitation is to be imposed on a permission granted pursuant to an application, it has to be done by condition."

Applying those principles to this site;

WRDC/148/61 had a number reference in the description of development but no numbers condition in the decision notice.

WRDC/861/62 had a number reference in the description of development and in the decision notice (25)

WRDC/1390/63 had no number reference in the description of development nor in the decision notice.

WRDC/5293 had no number reference in the description of development nor in the decision notice.

6/14676 had no number reference in the description of development nor in the decision notice.

P/2004/0753 had a number reference in the description of development but no numbers condition in the decision notice.

Accordingly, there is no numbers condition on the whole site, and at best there was only a numbers condition on the part of the site covered by WRDC/861/62.

It is noted that the site licence issued to the previous owner had a number of 73; however, that licence did not quote planning references 6/14676, nor P2004/0753, which would arguably be a basis to increase the capacity above the 73 previously stated. It is noted that the plan with the licence shows the site includes Woodville Bungalow within it. A copy of that licence is attached as Appendix R.

Conclusion

The entire site as owned by previous owners, and the present owner has been a caravan site as defined in legislation. That includes not only the caravans at the site used for human habitation but also the access and other features used in conjunction with the caravans. That includes Woodville Bungalow as explained in two different ways. The Council is asked to grant the certificate to confirm the above.