

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	21 <sup>st</sup> Dec 2020
Planning Development Manager authorisation:	SCE	22.12.2020
Admin checks / despatch completed	ER	23/12/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	23.12.2020

**Application:** 20/01601/LUEX                      **Town / Parish:** Clacton Non Parished  
**Applicant:** Mr Graham Bland  
**Address:** Land North of St Johns Road Clacton On Sea Essex  
**Development:** Use of land as a caravan site.

### 1. Town / Parish Council

Not applicable

### 2. Consultation Responses

None received

### 3. Planning History

17/00825/OUT	Residential development of 84 dwellings (following demolition of numbers 820 and 824 St Johns Road).	Withdrawn	08.04.2019
17/00826/OUT	Hybrid application consisting of: outline planning application for residential development of 34 dwellings and full planning application for the creation of new access road.	Refused	16.08.2017
18/00952/FUL	Use of land for stationing of up to 62 holiday units as an extension to the adjoining Leisure Glades Caravan Park	Approved	15.04.2019
20/01601/LUEX	Use of land as a caravan site.	Current	

### 4. Relevant Legislation

The Town & Country Planning Act 1990

### 5. Officer Appraisal

The Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

The time limits are:

- o four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed
- o four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken
- o 10 years for all other development. The 10 year period runs from the date the breach of planning control was committed

Once these time limits have passed, the development becomes lawful, in terms of planning.

Subsection (1) of section 191 provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes

Applications for Lawful Development Certificates should include the following information:

- o whether the application relates to:
  - o a use
  - o a building operation
  - o a condition not complied with
- o the date that the use started
- o any use class the applicant considers to be applicable
- o the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- o any other relevant information
- o a plan identifying the land
- o a certificate as to the applicant's interest (ownership, tenancy etc) in the land and any interest of any other person

Question 4 of the application form submitted on 23<sup>rd</sup> November 2020 confirms that the application relates to a use, building work or activity in breach of a condition.

Question 7 of the application form submitted on 23<sup>rd</sup> November 2020 confirms that the use begun in August 1985.

The covering letter submitted on 9<sup>th</sup> November 2020 confirms that the application relates to the existing use of the land as a Caravan Site.

Question 6 of the application form submitted on 23<sup>rd</sup> November 2020 confirms that the grounds for the Lawful Development Certificate are that the use began more than 10 years before the date of the application.

Site Plan, drawing number 1502-0001-02, received 9<sup>th</sup> November 2020, identifies the land to which the application relates.

Question 10 of the application form submitted on 23<sup>rd</sup> November 2020 confirms that the applicant's interest in the land is as the owner

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence. This could include:

- o proof that any use has been carried on continuously for a period of 10 years

The following evidence has been submitted in support of the LDC:-

Person	Document	Date(s)
Graham Blandini Bland	Statutory Declaration	1985 to date
Eight signatories	Statement of use	1985 to date
Dr. Z. Fityan	Statement of use	1985 to date
C. Judd	Statement of use	1990
Mr & Mrs Canham	Statement of use	1990
M. Griggs	Statement of use	2000
Dr. A. K. Gbla	Statement of use	2000
Mr & Mrs Brazier	Neighbour statement	October 2000
Mr & Mrs Canham	Statement of use	October 2000
D. Taylor	Statement of use	November 2000
C. Arthur	Neighbour statement	April 2001
Mr & Mrs Butters	Neighbour statement	April 2001
R. Bell	Neighbour statement	April 2001
Mr Noakes	Employee statement	May 2001
D. Bloomfield	Neighbour statement	May 2001
C. Päivi	Statement of occupation	October 2001
W. G. Howard	Statement of occupation	October 2014
Mr Noakes	Statement of use	April 2015
K. Riipinen	Statement of occupation	September 2017
Sølever	Statement of occupation	October 2018
Steve Robinson	Statement of occupation	November 2018
C. Price	Statement of occupation	2019
Li Da	Statement of occupation	February 2020
G. Nistorov	Statement of occupation	February 2020

Section 191 of the Town and Country Planning Act 1990 is the relevant section when dealing with issues of Certificates of Lawful Use or Development. Section 191 (1) (a) states that the use will be lawful if no enforcement action or Breach of Condition Notice could be served and, that the use or development does not constitute a contravention of any of the requirements of any Enforcement Notice then extant. In this case there is no record of an Enforcement Notice in respect of this property.

Circular 10/97 'Enforcing Planning Control - legislative provisions and procedural requirements' states that if a certificate is for a use of land - unless the use falls within one of the "use classes" specified in the Use Classes Order (UCO) current at the time, or the certificate is granted on the basis that a specific grant of planning permission confers, lawfulness on the use it is important for it to state the limits of the use at a particular date. These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference, specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies, or changes in some way to the point where a "material" change of use takes place, the LPA may then take enforcement action against that subsequent breach of planning control (which a less precise certificate might well preclude). A LDC must therefore be precisely drafted in all respects.

By virtue of section 191(5)(b), a LDC must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the UCO. But where within a "use class", a LDC must also specify the relevant "class". In all cases the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously.

A caravan site has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960. 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".

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...".

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 local planning authority are satisfied that, on the balance of probabilities 1502-0001-02, received 9th November 2020 for Land North of St Johns Road, Clacton On Sea, CO16 8BS has been used for the purposes of siting caravans (a caravan "site") with non-simultaneous occupation of a number of the units on a regular basis for a period of 10 years and that this use has not been supervened by another material change of use and nor has it been abandoned.

## **6. Recommendation**

Lawful Use Certificate Granted

## **7. Conditions / Reasons for Refusal**

The local planning authority are satisfied that, on the balance of probabilities 1502-0001-02, received 9th November 2020 for Land North of St Johns Road, Clacton On Sea, CO16 8BS has been used for the purposes of siting caravans (a caravan "site") with non-simultaneous occupation of a number of the units on a regular basis for a period of 10 years and that this use has not been supervened by another material change of use and nor has it been abandoned.

## **8. Informatives**

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		<b>NO</b>
<b>Are there any third parties to be informed of the decision?</b>		<b>NO</b>