AVISON YOUNG

EasternSands



Certificate of Existing Lawful Use of land for the all year use of the site as caravan park

Eastern Sands Caravan Park, 100 Brighton Road, Lancing , BN15 8LW

May 2021

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For and on behalf of Avison Young (UK) Limited

1. Introduction

1.1 Avison Young have been instructed by Thomas Cooper, owner and operator of Eastern Sands Caravan Park to submit a Certificate of Existing Lawful Use for the all year round use of the subject land as caravan park. This statement gives an overview of the site location and context; details of relevant planning history; evidence and our interpretation of the law.

Avison Young

1.2 Avison Young creates real economic, social and environmental value as a global real estate advisor, powered by people. As a private company, our clients collaborate with an empowered partner who is invested in their success. Our integrated talent realises the full potential of real estate by using global intelligence platforms that provide clients with insights and advantage. Together, we can create healthy, productive workplaces for employees, cities that are centres for prosperity for their citizens, and built spaces and places that create a net benefit to the economy, the environment and the community.

1.3 Avison Young Leisure is the specialist tourism and leisure advisory arm of Avison Young. Our specialist planning and development team has extensive experience of providing viability, need assessments and development consultancy, planning advice, applications, appeals and expert witness evidence at planning inquiries for development in the tourism, leisure, and retirement sector. Our work inevitably involves us in residential development from the conversion and redevelopment of redundant tourism and leisure assets through to retirement villages and residential home parks. We are retained as national planning advisors to the British Holiday and Home Park Association, the representative body for the caravan parks industry.

2. Site Context & Description

2.1 The Eastern Sands caravan park occupies a beach-front location, directly off the A259 coastal route linking Shoreham-by-Sea to Lancing; both towns of which are within 2 miles of the site. The site comprises 40 single-unit caravans, sited in linear rows and accessed south of the A259.

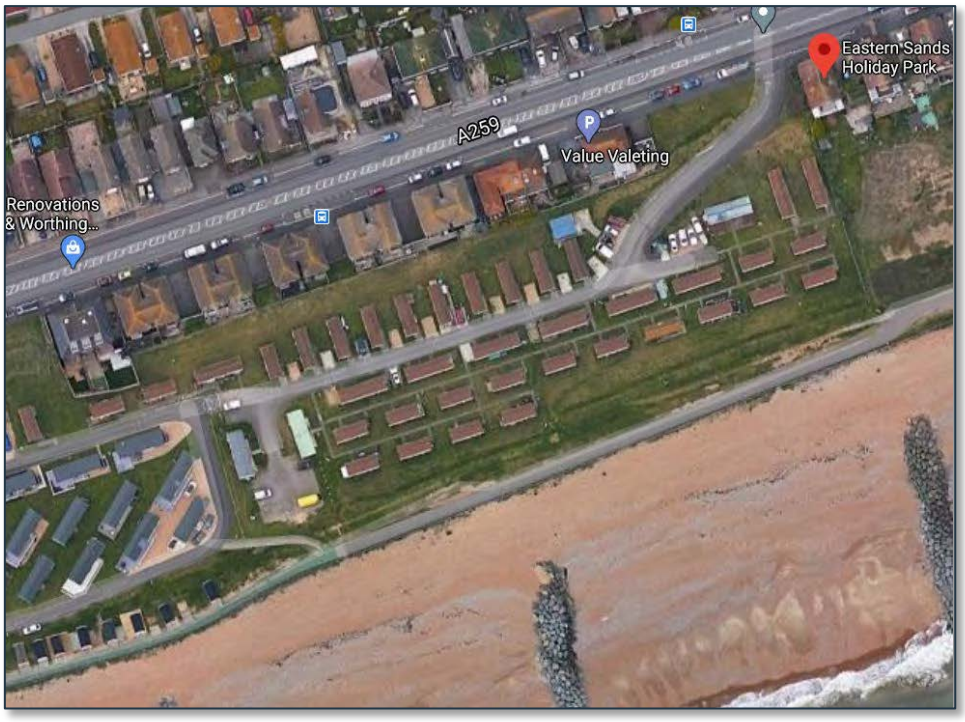


Figure 1: Aerial of Site Location (Google earth)

3. Proposal

3.1 This application is submitted for a Certificate of Lawfulness for an Existing Use under section 191 of the Town and Country Planning Act 1990 for the following description of development:

Existing use of land for the all year use of the site as caravan park.

3.2 This application relates to the land at Eastern Sands Caravan Park, 100 Brighton Road, Lancing, BN15 8LW as this can be seen edged in red on the site location plan (drawing no: AY.02C100220.00) which has been submitted with this application.

3.3 The application is submitted on the basis the use described above, hereto the land described above, has been in operation for at least the last 10 years and is, therefore, immune from enforcement action.

4. Planning History & Site Licence

Planning History

4.1 Our client, Mr Thomas Cooper purchased Eastern Sands Caravan Park from the then owners, Adur District Council on 14th October 2008. Until 2005, the Council also owned the park to the west of the site but this was sold and subsequently renamed to Beach Park. It is understood that parks were being used by the Council for holiday accommodation (west part) and to house social housing tenants (east part) and they were considered as one site and known as Golden Sands Caravan site. Since the sale of the western part, the two caravan parks remain distinct from one another.

4.2 Adur and Worthing Council's online planning register shows a long planning history for Eastern Sands Caravan Park but this statement will only discuss and analyse the relevant to the subject case applications.

Reference Number	Description of Development	Decision	Date
L/95/48	Unknown	Approved temporarily	1948 (exact date unknown)
L/45/52	Unknown	Approved temporarily	1952 (exact date unknown)
L/4/58	Unknown	Approved temporarily	1958 (exact date unknown)
L/318/61	Unknown	Approved temporarily	1961 (exact date unknown)
L/49/77	Moving of caravan site	Approved	14.04.77
L/163/80	Permanent use of land for the standing of static holiday caravans and beach huts	Unknown	Unknown
L/6/81/TP	Permanent use of land for the standing of static holiday caravans (for occupation between 1 March & 31 October, & for maintenance repair purposes only between 1 November & 28/29 February for an aggregate of not more than 30 days per caravan)	Approved	10.02.81
L/66/89/TP	Regulation 4 application to continue use of part of land as a caravan site without complying with condition 1 of L/6/81/TP. (to enable 40 units to be occupied residentially throughout the year)	Approved	01.06.89

L/102/89/TP	Regulation 4 application for continued use as a caravan/mobile home site without complying with condition 2 of permission L/6/81/TP (changed layout)	Approved	22.08.89
L/5/01/TP	Continued use of east part of site for residential occupation of up to 40 mobile homes (renewal of L/66/89) (Reg.3)	Approved	28.01.02
L/197/05/TP	Improvements to access (between no's 96 & 102 Brighton Road); provision of turning head and car park (adc Reg.3)	Approved	07.01.06
AWDM/0795/11	Installation of 2 flags on poles and 3 free standing non illuminated sign boards (2 x V boards and 1 single board) on poles (part retrospective)		06.02.12

4.3 It seems that the site has been operating as a caravan park since late 1940s but the first traceable permission on the Council's website for the site is L/49/77. Permission was granted in April 1977 for 'Moving of caravan site' but there are no documents attached to this permission.

4.4 **L/6/81/TP**, granted in February 1981, is the first known permanent permission for the site for the stationing of holiday caravans. The permission was granted subject to the following six planning conditions (summarised):

1. Seasonal restriction (1st March – 31st October) although occupation is allowed for an aggregate of no more than 30 days outside of the season for repairs and maintenance.

2. Caravans to adhere to layout as approved under L/318/61 or in accordance with such revisions as subsequently required by the provisions of the Site Licence.

3. No electrical service lines to be erected.

4. No other permitted development buildings allowed without permission.

5. Landscaping scheme required in 3 months of decision.

6. The total number of caravans shall not exceed 154.

4.5 The permission was granted for the Golden Sands Caravan Site which, as discussed above, is currently divided into two separate sites; Beach Park Caravan Park and Eastern Sands Caravan Park. The restrictions, therefore, imposed by the conditions attached to permission L/6/81/TP apply to both sites, as these were then considered one site. Although there is not any available location plan for this

application to clarify this, we believe that this is confirmed by condition 6 which refers to a large number of 154 caravans which could only be accommodated within both sites.

4.6 The location plan (figure 2 below) of the later permission L/66/89/TP which was to (temporarily) vary permission L/6/81/TP also confirms that the first permission was for the entire site then known as Golden Sands.

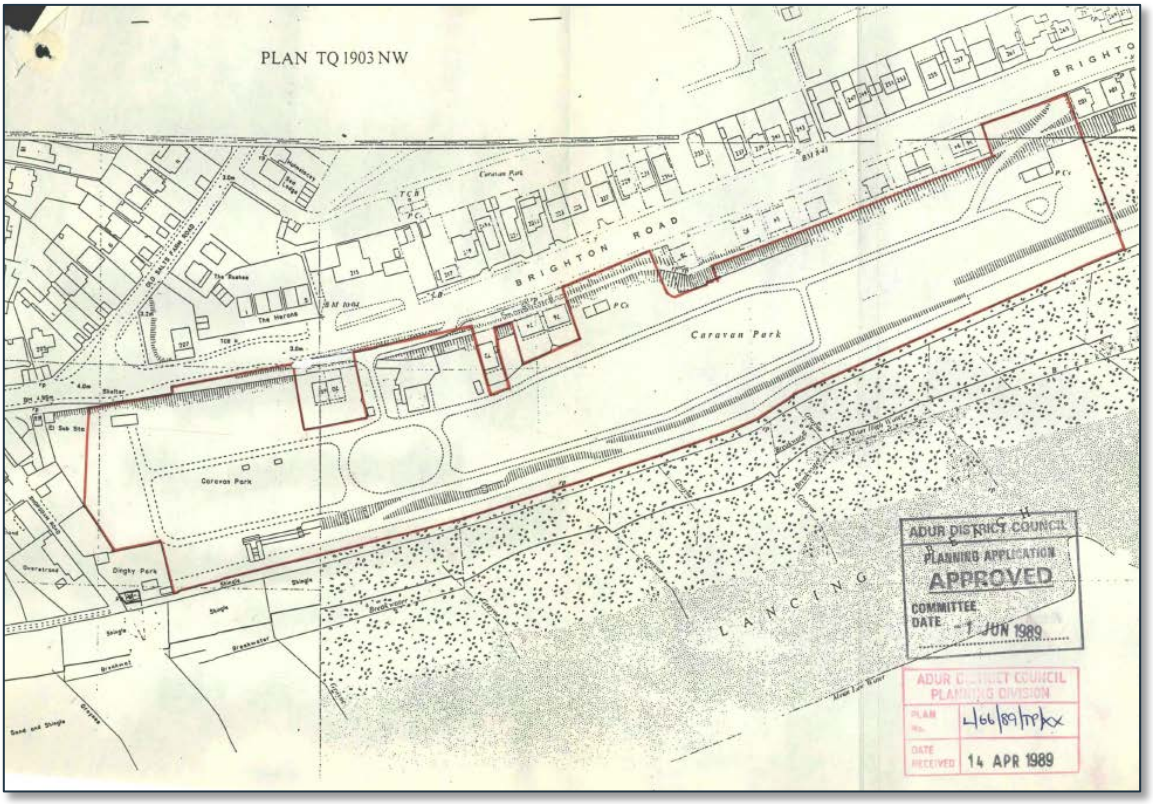


Figure 2: Approved Site Location Plan – L/66/89/TP

4.7 Permission **L/66/89/TP** allowed the Council to continue using part of Golden Sands as a caravan site without complying with condition 1 of L/6/81/TP. This was to enable 40 units to be occupied residentially throughout the year. The part of the site this application referred to is the land that comprises the application site. Condition 1 of this permission required the residential use to cease by 31 May 1989.

4.8 Permission **L/102/89/TP** was then granted for continued use of the site as a caravan/mobile home site without complying with condition 2 of permission L/6/81/TP to enable a change in the layout. Permissions L/66/89/TP and L/102/89/TP were both permissions personal to Adur (now, Adur and Worthing) Council and they did not run with the land.

4.9 In 2002, a new permission **L/5/01/TP** was granted for 'Continued use of east part of site for residential occupation of up to 40 mobile homes (renewal of L/66/89) Reg.3). This permission was granted for the

land subject to this application but this was also personal to Adur Council and condition 1 required the use to be discontinued on 31st January 2007.

4.10 Following '*the separation of the residential and holiday sites*' (in 2005) as stated in the officer's report another permission **L/197/05/TP** was granted in 2006 allowing access improvements and the provision of a turning head for the residential site. This was also personal to the Council.

4.11 From the analysis above, we understand that permission L/6/81/TP is apparent, that despite a succession of permissions approving the residential use of the subject land, the extant permission for the application site and that therefore the restrictions imposed by its conditions apply to the application site. These are:

- The caravans should not be occupied between November and February (inclusive) although occupation is allowed for an aggregate of no more than 30 days outside of the season for repairs and maintenance. The subject part of this site has been operated in breach of that condition (but in accordance with subsequent permissions given to the Council) since our client purchased the site in 2008, and most likely in continuance of the way in which the Council had operated the park in accordance with the conditions of the permissions they approved for themselves.

- The caravans sited across both Beach Park and Eastern Sands should not exceed 154. According to our understanding the adjoining Beach Park consists of 99 caravans/pitches/beach huts while the application site, Eastern Sands, consists of 40 caravans. This is a total of 139 caravans which does not exceed 154. The application complies with condition 2 of its extant permission.

4.12 Condition 2 required the layout to comply with the layout approved under L/318/61 or in accordance with such revisions as are subsequently required by the provisions of the Site Licence. Since 1981, the layout has changed several times to accommodate the needs of its occupiers and the Council and we therefore consider that there is no restriction to a specific layout under this permission.

4.13 In early 2021, our client, Mr Cooper received an undated letter by Mr Jordan Trimby, the Council's Enforcement Officer. This requested the provision of the following information:

1. *How many caravans are parked on the Eastern Sands site?*

2. *How often are they used? For example: occasionally, seasonally or perennially?*

3. *If any of the caravans are used on a year round basis, please verify which ones.*

4. *Please provide us with a plan of the site.*

4.14 Following the receipt of this letter, Mr Cooper instructed Avison Young to investigate the site's planning history in relation to the questions asked by the Council and respond accordingly. Reviewing the site's planning history it became apparent that the although the site has benefitted from a succession of permissions for residential use these were personal to the council and site has in fact been operating in breach of condition 1 of the remaining extant permission L/6/81/TP as it is being used all year round. However, the site has been used this way for more than 10 years and its therefore immune from enforcement action and lawful. This will be discussed in the next section of this statement.

Site Licence

4.15 In December 2008, a Site Licence no. ADC/1/2008 (Appendix I) was issued for the use of the land Golden Sands Holiday Park (East), currently known as Eastern Sands Caravan Park as caravan site. The Site Licence does not include any restrictions on the season the park can operate or the number of caravans that can be sited on the park.

5. Legal Framework

5.1 For a Certificate to be granted under section 191 in respect of a change of use of land, it must be established that the use began more than 10 years before the date of the application. Therefore, the 'requisite period' for this application is from 1st March 2010 till now, in particular to demonstrate the use of the caravans between November and February each year in breach of the 1981 planning condition.

5.2 The Planning Practice Guidance on lawful development certificates states that a development is lawful if no enforcement action may be taken against it. The Planning Practice Guidance also states that: *'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.'*

5.3 In addition to this position, the Courts have held that the applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted (see F W Gabbitas v SSE and Newham LBC [1985] JPL 630) and where there is no contradictory evidence held by the Council or others, and 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, an LDC should be granted.

5.4 In determining whether a Certificate should be issued, the local planning authority must determine whether, on the facts of the case, the relevant matter would, on the balance of probabilities, be lawful by virtue of its length of use.

6. Evidence

6.1 It is the Applicant's (Mr Thomas Cooper) case that the existing use of land is considered lawful by virtue of its continuous length of use and existence. The following evidence is provided in support of this application to meet the criteria of Section 171B of the Town and Country Planning Act:

a) Signed Statement of Truth provided by Thomas Cooper – Appendix II

In his Statement, Mr Cooper provides information about the purchase and the operation of Eastern Sands explaining how he has rented the caravans on site all year round.

b) Bank Slips and Statements – Appendix III

The bank slips and statements (see 'Paid in' column) provided in Appendix III confirm that Mr Cooper was receiving rent payments by the occupiers of the caravans all year, including between November and February (inclusive), every year between November 2010 and May 2021.

c) Contracts / Tenancy Agreements – Appendix IV

We have a provided a large number of contracts between Mr Cooper and the occupiers of Eastern Sands dated August 2011 to March 2019 with the most recent ones having no expiry date. Please note that the contracts from 2010 and early 2011 are not available (and not included in Appendix IV) as these were issued and filed by the letting agents who were advertising, letting and managing the park during this period. For evidence of this period please see the letting managers invoices in Appendix VII. Contracts were not issued for 2020 and 2021 due to the Covid-19 pandemic but the occupiers kept using the caravans all year round as their last contracts continued to run throughout the year. The evidence in Appendix IV shows that the park was being used all year round, including between November and February, every year since 2011 to present.

d) Correspondence between Mr Cooper and the occupiers of the caravans – Appendix V

We have provided a number of letters and texts between Mr Cooper or the managers of Eastern Sands (Dave and Zara) or solicitors on behalf of Mr Cooper and the residents. The topics discussed in these letters are mostly notifications of works requiring access to the caravans, overdue payments and difficulties in arranging these, agreements termination and notices to quit. The documents in Appendix V confirm that the park was being used all year, including between November and February, every year between May 2011 and September 2020.

e) Rent book entries – Appendix VI

We have provided photographs of the handwritten rent book entries which show that the park has been used all year round since November 2010 up to March 2021.

f) Advertisements, Inquiries from interested people and Correspondence/Invoices from letting agents – Appendix VII

We have provided correspondence with and invoices from letting agents who had been advertising, letting and managing the caravans at Eastern Sands on behalf of Mr Cooper and texts from people interested in renting. These cover the period March 2010 to March 2017 and confirm that the park was used all year round during these years.

g) Bills and Invoices – Appendix VIII

We have provided electricity, gas, water and internet bills, gas notices, correspondence with southern water and invoices for hiring bins from the Council and other services provided by private companies for the period November 2009 – December 2020. These attachments in Appendix VIII show that services were being provided and utilities were being used all year round (including the period between November and February (inclusive)) every year and therefore confirm that the park has been used all year round.

h) Notebook entries – Appendix IX

We have provided photographs of the notes that Mr Cooper has been keeping regarding the operation and the occupiers of the park for the period August 2010 to September 2020. The notes are dated and refer to the tenants' payments, works required in the park and inquiries from people interested in renting caravans. The notes show that the park was being used all year, including between November and February, every year between 2010 and 2020.

i) Correspondence between Mr Cooper and the Site Managers (Fox & Sons / Dave and Zara Jeans) – Appendix X

Text messages and emails between Mr Cooper and the site's managers have been provided in Appendix X for 2010 and the period September 2015 – March 2017 confirming the year round use of Eastern Sands.

6.2 The evidence submitted shows that the park has been operating all year, including between November and February (inclusive), each year since at least 1 March 2010 in breach of condition 1 of extant permission L/6/81/TP. Combined with the fact that the caravan park can lawfully operate the rest

months under the extant permission, the submitted evidence for the periods November to February proves the all year round use of the land as caravan site.

7. Summary

7.1 On the basis of the details submitted, there is clear evidence of continuous use of all year round use of the site as a caravan park from at least 1 March 2010 to present each year in breach of condition 1 of extant permission L/6/81/TP.

7.2 We, therefore, submit that there is sufficient evidence to prove on the balance of probabilities that the site has been in continuous all year round use as a caravan park for more than ten years and that this use is now lawful and immune from enforcement.

7.3 We would be grateful if you could look into this matter and deal with it accordingly by issuing a Certificate of Lawfulness. If there are any further plans or documents that you require in order to expedite this matter please do not hesitate to contact us.