
**NORTH FAIRGROUND SITE
VALE OF HEALTH
LONDON NW3 1AU**

PUBLIC INQUIRY

STATEMENT OF CASE

THE CITY OF LONDON CORPORATION

APPEAL REFERENCE: APP/X5210/18/3198526

SEPTEMBER 2018

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1.0 INTRODUCTION

- 1.1 This is the Statement of Case of the City of London Corporation (“The City”), which has been prepared for the purposes of the appeal against non-determination in respect of the application made by Knightsbridge Parks LLP to the London Borough of Camden (“The Council”) for a Certificate of Lawfulness of Proposed Use pursuant to s. 192 of the Town and Country Planning Act 1990 (“the Act”) in respect of the North Fairground Site, Vale of Health, NW3 1AU (‘The Appeal’).
- 1.2 The City of London Corporation took over the management of Hampstead Heath from the London Residuary Body in 1989. The City is obliged under various statutory provisions, including the London Government Reorganisation (Hampstead Heath) Order 1989, to protect and preserve the Heath as Open Space, and to ensure that any development on the Heath or its boundary would not adversely affect its character. The City has adopted a Management Plan for the Heath¹ and takes an active role in making representations in respect of proposals which the City considers could compromise the open, natural character of the Heath.
- 1.3 The Heath and the appeal site are designated as Metropolitan Open Land (MOL) and Private Open Space (POS) respectively and lie within the Hampstead Conservation Area.
- 1.4 The appeal site is referred to as a ‘site for travelling showpeople’ in the Camden Local Plan 2017².
- 1.5 A Travelling Showpeople’s Site represents, in the City’s view, the lawful use of the site, and is consistent with the uses of the site as noted by the City over the years.
- 1.6 The application, and appeal, specifically seek to test whether the use of the site solely for the siting of 7 static caravans for human habitation, would be lawful.
- 1.7 The City is firmly of the view, for the reasons set out as follows, that the proposal for 7 static caravans on the site involves a material change of use from the existing site use and that the Certificate sought should not be granted.

¹ Hampstead Heath Management Plan 2007-2017

² Camden Local Plan 2017 – Paragraph 3.287, pg. 125.

- 1.8 As this appeal is concerned with an application for a Certificate of Lawfulness, the policy context of the site has limited relevance. Evidently, had the Appellant applied for planning permission for the proposed use, the policy context would be highly significant. It is the City's view that the Applicant ought to have applied, in all the circumstances of the case, for full planning permission for a material change of use of the site allowing the policy context to be fully considered and the application to be properly assessed against the restrictive policy context of the MOL and POS designations and the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve or enhance the character and appearance of the Conservation Area³.

Approach to Applications and Appeals for a Certificate of Lawfulness

- 1.9 In assessing an application for a Certificate of Lawfulness, two broad steps are necessary:

1. Establishing the *lawful existing use* of the planning unit;
2. Demonstrating that the use and development proposed *would not require planning permission* in order to be lawful.

- 1.10 Generally, establishing the lawful existing use of a site involves pointing to an extant planning permission, or grant of Certificate. In the absence of either, evidence demonstrating the existing use of the property for a period commensurate with the requirements of the Act⁴ is necessary to render the use immune from enforcement action. In this instance, the Applicant is seeking to demonstrate that the following proposed use of the site would be lawful:

"Seven static caravans for residential occupation"

- 1.11 To confirm that this use would be lawful it is therefore necessary for the Appellant to demonstrate, through the provision of evidence, and on the balance of probabilities, that a commensurate use has existed on the site for a continuous period of 10 years

³ S.72 of the planning (Listed Buildings and Conservation Areas) Act 1990

⁴ S.171B of The ^{Town} and Country Planning Act 1990 (as amended)

preceding 31 July 2017 when the application was submitted such that a change to the proposed use would not be material.

- 1.12 In making its case that the proposed use would not constitute a material change in use, the Appellant appears to seek to rely on the siting of some caravans on the site that it considers to have been occupied by individuals unconnected or unrelated to the travelling showpeople use. It would appear that the 7 static caravans proposed are intended to correspond to possibly 7 ‘unrelated’ residential uses of the site by non-showpersons or non-related fairground uses.
- 1.13 Under the provisions of S.192 of the Act, in order to enable this assessment, it is necessary for the Applicant (Appellant) to support their application with the necessary evidence. This is a fundamental requirement of any application for a Certificate of lawfulness, and indeed *‘such evidence verifying the information included in the application as the applicant can provide’* is a validation requirement set out in para 39 of the Town and Country Planning (General Development Management Procedure) Order 2015.
- 1.14 Further, in this case, the City considers that it is relevant to consider the extent to which the proposed use would give rise to any associated operational development. Section 55 of the Act is very clear in that planning permission is required for both operational development and a ‘material change of use of land’. The supporting material submitted with the application, (in terms of proposed site layout and indicative images of the static caravans proposed) would suggest that permission for operational development, in addition to permission for the use proposed, would be required.
- 1.15 Therefore, in this case, in order to establish whether the Certificate should be granted, the following detailed questions require consideration:
- What is the ‘Planning Unit’ to which the application relates?
 - What is the lawful existing use of the Planning Unit?
 - Has the Appellant provided evidence to support the use contended for?
 - Would the development proposed represent a material change of use of the Planning Unit?
 - Would the proposal require operational development for which planning permission would be required?

2.0 DESCRIPTION AND HISTORY OF THE SITE

- 2.1 The physical characteristics of the site are described in detail in para 1.3 of the Officer's Report prepared in respect of the application that is the subject of the Appeal. It refers to the North Fairground Site (as distinct from the South Fairground site). The North Fairground site is 0.2214ha in area. The red line submitted with the original application⁵ is broadly consistent with the site boundary. The boundary itself is well defined by fencing.
- 2.2 Photographs of the site are attached at Appendix 2. These photographs were taken by a neighbouring resident⁶ over an extended period of time (since 2008). The month and year when the image was taken are indicated. Additional site photographs taken in the last two months are also included to provide an indication of the changing level of activity over time.
- 2.3 With regard to the Planning History of the site there is no record of a planning permission having been granted for the use of the site or a Certificate of Lawfulness having been granted to confirm the use of the site.
- 2.4 There is record of an application for a Certificate of Lawful *Existing* Use made in 2010 for a residential caravan site (effectively seeking to confirm the same use as now being proposed), which was withdrawn in February 2012. Insufficient evidence was provided then to support the grant of a Certificate and the application was withdrawn prior to it being refused by Officers.
- 2.5 In terms of the wider history of the site, it is relevant to note that the statutory register for the site demonstrates a history of applications made at regular intervals since the 1990s, which have, in the City's view, sought to move the use of the site in the direction of permanent residential use. Two applications for residential redevelopment were submitted in 1997 by the site owners, one for 15 flats, the other for 8 no. houses and a block of 8 no. flats. Both applications were refused. The scheme for 15 flats was subject to an Appeal that was dismissed in May 1998⁷.

⁵ Attached at appendix 1

⁶ Resident on East View, immediately to the West of the Appeal Site, overlooking the site

⁷ Decision Letter attached at appendix 3

- 2.6 The site was also subject to enforcement action in 2006 to remove caravans and occupants not associated with the travelling showpeople's use of the site.
- 2.7 The pattern followed appears to be that an application is made every ten years or so in an attempt to move the use of the site in the direction of permanent residential use. In 1998, 2010 and now 2017, the intent is clear. The City notes that the Inspector in the 1998 Appeal was moved to comment:

"9. Before I identify my view of the principal issues in this case, I feel it necessary to deal with a legal matter that arises from a principal plank of your case.....As I understand the argument that you have advanced at the Inquiry, you believe that these designations should not prejudice the development of the site for residential purposes because they postdate the residential use of the site....

10. In my view this represents a fundamental misunderstanding of the planning process....."

- 2.8 The consistent thread throughout this period has however been the policy designation of the site as Metropolitan Open Land (in respect of which, no attempt has been made to have the designation changed) and which may well have influenced the approach taken to the site owners or previous applicant's engagement with the planning system since 1998. The Appeal Inspector in 1998 took the view that the lawful use was probably as 'winter quarters' as described in circular 22/91⁸
- 2.9 The Appeal proposal is a further application (within that pattern of fairly regular applications) attempting to justify a permanent sole residential use of the site, without being subject to the rigours of an application for planning permission.

⁸ Replaced by Circular 04/2007 which was in turn replaced by Planning Policy for Travellers 2015

3.0 THE PLANNING UNIT

- 3.1 The planning unit is defined by the application red-line boundary⁹, which the City considers to be consistent with the site boundary evident upon inspection of the site. This would appear to be ‘common ground’ between all parties participating in the Appeal.

⁹ At appendix 1

4.0 THE LAWFUL EXISTING USE

- 4.1 In the absence of any planning permission or Certificate of Lawful Use being granted for the site, it is necessary to consider the character and history of the existing use in order to determine the established lawful use of the site.
- 4.2 It is the City's position that the site's established lawful use is that of a travelling showpeople's site. The site has, over time, been defined by the various mixed activities consistent with a travelling showpeople's site, including winter quarters, storage, accommodation of vehicles and fairground equipment and some, peripatetic, residential caravan use. The City's position is that the numbers of caravans and vehicles and fairground equipment vary significantly by year, and time of year, as one might expect from such a site. The photographic record attached at Appendix 2 confirms this to be the case.
- 4.3 The Appellant's position appears to be that the site is in an established mixed use – a mix of travelling showpeople's site and a limited number of caravans in unrelated, permanent residential use. The Council appears to accept that some 'unrelated' residential use has occurred at the site at various points in time.
- 4.4 The City's position, in summary, is that the evidence put forward does not demonstrate in a clear and unambiguous manner that 'unrelated' permanent residential use of the site has occurred over a ten year period prior to the submission of the application that is the subject of this appeal.
- 4.5 The peripatetic nature of activity on the site undoubtedly makes an assessment, let alone enforcement of, any breaches of planning control difficult (and in the City's view there may well have been and may continue to be some such breaches), but, in the City's view, it is this very variation in activity that defines the character of the site and its lawful use as a travelling showpeople's site, encompassing various mixed activities including winter quarters, storage accommodation of vehicles and some, often peripatetic, residential use.
- 4.6 The City is of the view that there is no evidence to suggest that any unrelated residential activity has been permanent or continuous enough for a period sufficient to render it immune from enforcement action, and in any event, any evidence that may

be relied upon in respect of some unrelated residential use on the site is considered by the City to constitute no more than a *de minimis* and incidental to the use of the planning unit as a whole as a travelling showpeople's site.

- 4.7 The range of uses that are acknowledged to comprise a 'travelling showpeople's site', in the aggregate render it a *sui generis* use, comprising a range of activities (from fairground storage through to limited residential).
- 4.8 It is evident that the nature and intensity of the activities on the site change over time. However, the City considers that the use of the site as a travelling showpeople's site has remained consistent.

Definition of 'Travelling Showpeople's Site'

- 4.9 While Circular 04/2007 has been superseded by *Planning Policy Guidance for Traveller Sites* published in August 2015, the City considers that the description in Circular 04/2007 is still pertinent, and the more succinct nature of the 2015 Planning Policy for Traveller Sites does not contradict or undermine the rationale or the applicability of this summary:

"Showpeople are members of a community that consists of self-employed business people who travel the country, often with their families, holding fairs. Many of these families have been taking part in this lifestyle for generations. Although their work is of a mobile nature, showpeople nevertheless require secure, permanent bases for the storage of their equipment and more particularly for residential purposes. Such bases are most occupied during the winter, when many showpeople will return there with their caravans, vehicles and fairground equipment. For this reason, these sites traditionally have been referred to as "winter quarters", with individual pitches generally referred to by showpeople as plots. However, increasingly showpeople's quarters are occupied by some members of the family permanently. Older family members may stay on site for most of the year and there are plainly advantages in children living there all year to benefit from uninterrupted education."

- 4.10 This summary captures the mix of activities and acknowledges a general trend to a more permanent level of occupation that travelling showpeople sites often have, and

the reasons for it – notably provision of permanent accommodation for older family members or children.

4.11 The preface goes on to explain:

The nature of showpeople's sites is unusual in planning terms. The sites often combine residential, storage and maintenance uses. Typically a site comprises areas set aside for the showpeople's accommodation – usually caravans and mobile homes – and areas where vehicles and fairground equipment can be stored, repaired and occasionally tested. The area of land set aside for accommodation by one family unit and the area of land set aside for the storage and maintenance of their equipment would collectively form a plot. This means that the sites do not fit easily into existing land-use categories. The requirement for sites to be suitable both for accommodation and business uses is very important to the travelling showpeople's way of life as they find the principle of site-splitting unacceptable.

4.12 The summary above, is a succinct description of the nature of activity, mix of uses expected on a travelling showpeople's site and the difficulties of disentangling these uses as the Appellant now appears to seek to do.

4.13 Consistent with this, in *Winchester City Council v SSCLG* [2013] EWHC 101¹⁰ (Admin), Philip Mott QC (sitting as a Deputy High Court judge) considered the various Circulars and Policy Statements relevant to travelling showpeople's sites and then went on to draw conclusions as to the nature of such sites as follows (see para. 40 of the judgment):

"i) Travelling showpeople are a distinct group, which does not include gypsies and travellers.

ii) As a group they have their own particular planning needs.

iii) There is a distinction, significant in planning terms, between the use of land for travelling showpeople and its use by gypsies and travellers.

¹⁰ Attached at Appendix 4

iv) Even more so, there is a distinction, significant in planning terms, between the use of land for travelling showpeople and its use as a residential caravan site.”

4.14 The High Court went on to conclude that *“a travelling showpeople’s site” may be a significant and separate land use in planning terms*” (see para. 41 of the judgment).

4.15 This description from Circular 04/2007 is absolutely consistent with the use and activity on the site. The City also considers that, consistent with the High Court’s position, a travelling showpeople site should be viewed as entirely distinct in planning terms from that of a residential caravan site. The City’s view is that it ought to be considered a distinct and separate land use in planning terms.

4.16 Circular 04/2007 also acknowledges the changes that have occurred in recent times to the nature of Travelling showpeople activities:

“The traditional pattern of showpeople’s travelling is changing and the community has generally become more settled. For example, a reduction in the number of large scale traditional fairs has lead to a diversification of showpeople’s activities involving more localised travelling and the need for more permanent bases on which to live and maintain their equipment”

4.17 Again, the City considers this description to be consistent with the use of the site over time.

4.18 Planning Policy for Traveller Sites August 2015 briefly touches upon the mixed-use nature of travelling showpeople sites.

9. Local planning authorities should have regard to the need that travelling showpeople have for mixed-use yards to allow residential accommodation and space for storage of equipment.

4.19 ‘Planning Policy for Traveller Sites August 2015’ also provides the following definition:

For the purposes of this planning policy, “travelling showpeople” means: Members of a group organised for the purposes of holding fairs, circuses or

shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

For the purposes of this planning policy, "pitch" means a pitch on a "gypsy and traveller" site and "plot" means a pitch on a "travelling showpeople" site (often called a "yard"). This terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots for "travelling showpeople", which may / will need to incorporate space or to be split to allow for the storage of equipment.

- 4.20 The 'plot' is therefore larger than a single pitch for a caravan as it also comprises space for storage and maintenance of equipment – a mix of uses.
- 4.21 In view of the above, the City considers that the current lawful use of the planning unit is as a 'travelling showpeople's site', which comprises the mix of caravans for residential occupation, storage of caravans, vehicles and equipment, that one would reasonably expect from such a site.

Specific References to and Descriptions of the Use of this Site

- 4.22 The Appellant has referred to a description of the site in a Committee Report associated with the consideration of the application for residential redevelopment in 1998.
- 4.23 The reference made in this report for the North Fairground Site is as follows:

"1.1 ...The north site is owned by the Abbott family who live on the site in caravans and use it for occasional fairground purposes. At present the north site is used for the storage of numerous caravans, lorries, trailers, kiosks and associated fairground equipment and, as such, has an untidy and semi-derelict appearance. The site is connected to mains electricity and sewerage."

And continues as follows:

...The lawful and established use ... is as a 'showpeoples' site' with associated occasional fairground use, incorporating a mix of recreational, residential, commercial and storage use"

- 4.24 The list of component parts of the use set out in this assessment would appear consistent with the records of the visual appearance of the site included at Appendix 2.
- 4.25 The Inspector's summary of the use of the site from the 1998 appeal decision was succinct and described the lawful use of the property as '*probably as winter quarters as described in Circular 22/91¹¹*', the circular which was superseded by Circular 04/2007 and latterly the Planning Policy for Traveller Sites, August 2015.
- 4.26 There is also a reference in adopted policy to the site providing 'plots' for travelling show people. The supporting text of Policy H11 of the Camden Local Plan 2017 refers to the site as the North Fairground Site at the Vale of Health, providing 5 plots for travelling show people.

Evidentiary Test for Lawful Existing Use

- 4.27 The appropriate evidence required to support the proposed use sought by the Appellant is: 10 years of the continuous siting of caravans for permanent residential occupation unrelated to the travelling showpeople's use of the site and for the period preceding 31 July 2017.
- 4.28 The Planning Practice Guidance Notes are clear that the burden of proof rests with the applicant, when establishing if a use is lawful. This test is no less relevant for a Certificate of Lawfulness for a proposed use than it is for an existing use.
- 4.29 The Appellant appears to take a different view on this, with only a cursory summation of the available evidence. On page 6 of the Appellant's Statement it is stated that:

"The council tax records, photographs, and site history all support an interpretation of a mixed use of 5 to 6 caravans for residential occupation,

¹¹ Para 9 – attached at appendix 3

caravans used for occupation by members of the Abbott Family, storage of caravans, storage of fairground and associated equipment. The site has a mixed use and the test is one of the balance of probabilities or whether the suggestion is more likely than not, given all of the above, it would not be credible for the local planning authority to suggest that the use is not established.”

4.30 The evidence provided must meet the test of being ‘*clear and unambiguous*’. The City considers that the Appellant’s statement is decidedly insufficient in terms of evidence to support the established lawful use and thus the use proposed, and would therefore fail the evidentiary test. In fact, evidence has been found in respect of the Council Tax and Ratings records (detailed below) which would suggest the Appellant’s contention as to residential occupation is demonstrably *not* the case.

4.31 To prove ‘on the balance of probabilities’ the use of the site for the requisite period for the siting of caravans for unrelated residential occupation, it would be necessary or at least reasonable for the Appellant to provide evidence of some or all of the following information:

- Information on the background of the occupants and the duration of their stay on site in the caravans for a period of 10 years
- Evidence of rent passing to the site owner for the caravans for a 10 year period
- Individual utilities connections for the period for the caravans
- Individual hardstandings or pitches for the period for the caravans
- Council tax records/electoral roll/ or business rates records for the site, for the period
- Statutory declarations from residents to confirm the number of caravans and the duration of their siting over a period of 10 years

4.32 No evidence of this nature has been provided.

- 4.33 The only evidence submitted by the Appellant is a series of aerial photographs of the site from 2008 – 2015. Two survey plans have been undertaken by the Council. None of these pieces of evidence, individually, or in aggregate would confirm, on the balance of probabilities, that there have been 7 or indeed a smaller number of caravans (static or otherwise) located on the site and occupied permanently by persons unrelated to the travelling showpeople's use of the site for a continuous period since July 2007. The varied nature of storage, caravans (both vacant and occupied), fairground equipment and vehicles, make it difficult to ascertain the true nature of any occupation. The regular recording of activity by a neighbouring resident is particularly useful in this regard (see Appendix 2).
- 4.34 The survey plans prepared by the Council, in 2011 and again in 2017¹² have been unduly relied upon as 'evidence' by the Appellant. Given that they represent only two specific dates in the last 10 year period, the City considers that they represent snapshots in time and do not present clear and unambiguous evidence of the nature of the occupation over the period. They are not sufficient to confirm 'unrelated, and 'permanent' use of caravans over the period required. If anything, the variations between the two surveys confirm the continuing peripatetic nature of activities, with the only limited exceptions being notably the caravan of Mr Dark¹³, and one or possibly two two of the caravans relating to the Abbotts occupation¹⁴. These would appear to be the only consistently located caravans (comparing the hand drawn nature of the 2017 survey and the CAD drawn 2011 survey).
- 4.35 The City also notes that of the caravans that are on site, the occupants (who are not Abbott or Hayes) are referred to in the main as 'fair helper'. This includes the caravan of Mr Henryk Clarke who also appears to have been on the site in the period between the 2011 and 2017 surveys. While fairground activities may or may not be various occupants' principal employment (yet to be shown), the assistance of a number of them with the activities of the travelling showpeople's site over time (eg. Mssrs Clarke and Dark) would confirm their reason for being located on the site, and their presence would not be considered anomalous or out of character with the travelling showpeople's use of the site.

¹² Attached at Appendix 5

¹³ Marked as caravanC09 on the 2011 survey and caravan 1 on the 2017 survey

¹⁴ Caravan C11 on the 2011 survey and caravan 2 on the 2017 survey

- 4.36 While it is not for the Council or Rule 6 parties to make out the Appellant's case, a review of the Council tax records would indicate that there are currently only 2 caravans registered on the site for Council Tax¹⁵. There are 7 entries for Council Tax on the Appeal site, listed as Caravans 1-7. With the exception of 'Caravan 3' and 'Caravan 4', entries have been deleted for all other caravans registered on the site:

Caravan 1	Deleted 10/04/2014
Caravan 2	Deleted 17/03/2017
Caravan 3	Deleted 2008 and Rated Band A from 01/02/2014
Caravans 4 and 5	Rated Band A from 05/05/2008*
Caravan 5*	Deleted 01/06/2008
Caravan 6	Deleted 10/04/2014
Caravan 7	Deleted 10/04/2014

- 4.37 Caravan 3 is registered to Mr Robert Dark, and caravan 4/5, which are banded together by the VOA (as one is considered an 'appurtenance' to the other), is registered to Mrs Olga Abbott. The Council have indicated that 'Caravan 7' was deleted from the records as it was only used for storage.
- 4.38 These Council Tax records are very unclear as to the occupation of the site, and certainly do not provide clear and unambiguous evidence to substantiate the presence of a significant number of permanent 'unrelated' residential caravans on the site over the 10 year period from 2007.
- 4.39 Further, the whole site is also rated for Business Rates. These records were updated as recently as 2017.¹⁶
- 4.40 The photographic record provided at Appendix 2 would confirm the varied nature of occupation over time. As recently as July 2018, there were substantial pieces of fairground equipment on the site, and over time, when the photographs have been taken, varying pieces of equipment, are present, moved on site or removed from site. Similarly, the presence of caravans in the south east corner of the site change in number, location and the caravans themselves are different, suggesting they have been moved on and off or around the site. All of the above underlines the peripatetic

¹⁵ See council tax records attached at appendix 6

¹⁶ VOA extract attached at appendix 8

nature of the existing use, most notably in this south east corner of the site, with the site being used in a manner that one might expect from a travelling showpeople's site over the course of the last ten years.

- 4.41 When the Council's plan drawings are considered in the context of the continuing fairground activities, the City considers that it would be reasonable to assume that there could be caravans (shown as unrelated or empty) that are actually used for purposes other than residential occupation. No evidence has been produced to demonstrate the actual uses at the time. The presence of vacant caravans in the site survey, together with the Council tax record deleted (due to a caravan being used for non-residential purposes), confirm that there is not necessarily a correlation between the presence of caravans on site and their permanent occupation for residential purposes by 'unrelated' persons.
- 4.42 The City's position is that the Appellant has failed to provide clear and unambiguous evidence to substantiate permanent and unrelated occupation (whether or not residential) of caravans on the site that are separate and distinct from the travelling showpeople's use of the site.
- 4.43 The City does not therefore agree with the position advocated by the Appellant, and referred to by the Council in the Officer's Report, that the site is a mix of 'travelling showpeople's site' plus a number of caravans occupied for residential purposes by 'unrelated' persons. The evidence put forward does not support the contention that the site has an established lawful residential use that is unrelated to the travelling showpeople's use.
- 4.44 In the alternative, it is the City's view that if any 'unrelated' residential use is found to have been established, it should be considered *de minimis* in the context of the use of the site as a travelling showpeople's site by virtue of its limited scale, ad hoc nature and lack of permanence. The City is of the view that the evidence only supports the conclusion that the whole site is in a single *sui generis* use as a 'travelling showpeople's site', with the nature of activities as referred to by the Appellant in their statement¹⁷ being consistent with this 'use'.

¹⁷ Ref appellants statement page 6

5.0 A MATERIAL CHANGE OF USE

- 5.1 Any assessment of whether a change of use would be material is a judgement of fact and degree, based on an assessment of the impact of the proposed use on the character of the site as a whole and, where relevant, any off-site impacts.
- 5.2 In respect of the materiality of a change to the use of the Appeal site itself from a travelling showpeople's site to a site for 7 static caravans for residential occupation, permanent residential occupation would bring a fixed pattern of occupation that is not present on the site currently. This would bring a change to the character of the use in the daily comings and goings to the site in terms of vehicular movements, particularly in the morning and pm peak, and deliveries that would be consistent with permanent residential occupation. Visitor parking arrangements and servicing would all be materially different from the peripatetic nature of the existing use.
- 5.3 Further, such a change of use would result in the separating out or removal of some of the mix of uses that go to the heart of a travelling showpeople's site in favour of one single use of the site (i.e. sole residential use). This would constitute a material change of use. On the Appellant's contention, it is for the Appellant to pick and choose from among the mix of uses within the travelling showpeople's site uses and the Council would be unable to take enforcement action should the Appellant decide to cease to use the site for, for example, storage of fairground equipment or the parking of vehicles. If that is the case, it would equally be lawful for the site to convert to a space for the sole parking of vehicles - for which the Appellant could be granted a Certificate. Similarly, while vacancy of some or all of the site for a period of time would not necessarily constitute a material change of use. On the Appellant's case it would be lawful for the site to convert to a space for the sole keeping of empty caravans - for which (again) the Appellant could be granted a Certificate.
- 5.4 It would appear self-evident that the use of the site as a car park or the storage of empty caravans would constitute a material change of use. Similarly, the use of the site for the siting of 7no. static caravans solely for residential use would also be a material change requiring planning permission.

- 5.5 The character of the existing use as outlined in previous sections is defined by its peripatetic nature. Change over time is part of this character.
- 5.6 To that end, the Appellant is seeking a Certificate of Lawfulness that, if granted, would eliminate this element of change and the mix of uses that are at the heart of a travelling showpeople's site. The use of the term '*static*' in describing the caravans to be located would seem the antithesis of the '*travelling*' adjective that has been applied to the description of the site for the last 50 years.
- 5.7 The '*unrelated*' nature of residential occupation sought would also distance the use from *showpeople*.
- 5.8 In summary, the Appellant's application seeks to have confirmed that removing 'travelling' and 'showpersons' from a *travelling showpeople's* site would not constitute a material change of use. The City considers that this is not the case.
- 5.9 In respect of off-site impacts, the Appeal Inspector in 1998 described the benefit, in planning terms, of having a 'soft edge' to the Heath, and that the peripatetic nature of activity on the site ensured that this remained the case¹⁸. The peripatetic nature of the uses on site, provides this 'soft edge' to the Heath, consistent with the designation of the site as MOL, and as Private Open Space. The use proposed would formalise and fix a permanent residential presence on the site, conferring domesticity by virtue of the siting of the units proposed, the establishment of residential curtilages and road layout. The type of 'caravan' suggested by the Appellant for location on this site, which is comparable in appearance to a residential bungalow, also conveys a domestic appearance, bringing the edge of the settlement of the 'Vale of Health' further into the Heath.
- 5.10 The erosion of the existing open character, emphasised during periods where the Appeal site is largely empty, would represent a significant change to the character of the site. There are also a number of footpaths on the Heath that run along the boundary of the Appeal site. A change in the nature of the use to the permanent residential presence proposed by the Appellant would materially alter the views from those footpaths towards the Vale of Health from the Heath.

¹⁸ Appeal decision at Appendix 3

- 5.11 The Vale of Health was included within the Hampstead Conservation Area when the Conservation Area was originally designated in 1968. At that time, the Appeal site was in use as a travelling showpeople's site. A key reason for the designation of the Conservation Area, was its proximity to the 'unique open space of Hampstead Heath and its integration with the village on its northern side'. The Conservation Area Statement acknowledges 'the buffer' that the open nature of the private open spaces around The Vale of Health provide to the Heath. The use proposed by the Appellant would permanently erode this buffer, which would alter the character of and be detriment to the Heath.
- 5.12 The use now proposed by the Appellant would also prevent the use of the site as 5 plots for travelling showpeople, as indicated in the Local Plan.
- 5.13 The City's position is that an assessment of the fact and degree of change proposed which considers the use of the whole planning unit over time must conclude that the use proposed by the Appellant is a material change of use.
- 5.14 Further, even if it were the case (contrary to the City's position), that some 'unrelated' residential use of the site had been established over time by persons other than the Abbotts and the Hayes families, the City's position is that the presence of such a use would not render a change to sole residential use immaterial in planning terms.

6.0 OPERATIONAL DEVELOPMENT

- 6.1 Notwithstanding the City's position in relation to the use of the site as set out above, the indicative proposals submitted by the Appellant would also seem to require elements of operational development – creation of hardstandings, brick plinths and works associated with access roads and establishing residential curtilages.
- 6.2 While not the central plank of the City's case, it would appear that these elements would constitute operational development requiring planning permission consistent with the definition of development contained in S.55 of the town and Country Planning Act 1990 (as amended)¹⁹.
- 6.3 It is not considered that these elements would benefit from permitted development rights.
- 6.4 The requirements of the General Permitted Development Order are such that the application for a certificate should include sufficient detail upon which to make a judgement as to whether the use or development proposed would be considered lawful. The Application did not include sufficient detail relating to the operational development required to enable this judgement to be made and it would have been therefore reasonable to refuse the Certificate Application on these grounds alone, or in this instance to dismiss this Appeal.

¹⁹ S.55 definition includes 'building operations' (eg structural alterations, construction, rebuilding, most demolition) and engineering operations (eg groundworks);

7.0 REASONS WHY THE APPEAL SHOULD BE DISMISSED

- 7.1 The City considers that the appeal should be dismissed for the following reasons:
- 7.2 The City disagrees with the case of the Appellant to the effect that the lawful existing use of the planning unit is a *sui generis* travelling showpeople's site with separate unrelated permanent residential use. While no planning permission or certificate is in place the weight of evidence, consistent throughout the previous planning history, appeal decisions and officer's reports, and the Council's surveys undertaken in 2011 and updated in 2017, when combined with the photographic records of the site all indicate that on the balance of probabilities the site has been, and continues to be in use as a travelling showpeople's site.
- 7.3 A travelling showpeople's site, by its nature, encompasses a mix of activities, including storage of vehicles and equipment, storage of caravans and caravans for occupation by residents, be they registered showpersons or fair helpers (part time or full-time), in whatever capacity. As recognised by the preface to Circular 04/2007 it can be difficult to disentangle these uses in planning terms. The character of the site is defined by this mix of uses in the aggregate and its affiliation with travelling showpeople.
- 7.4 The Appellant has presented no evidence that would suggest that the use of the site is anything other than that described above. Any 'unrelated' occupation of the site would appear temporary and *de minimis*. The Appellant has provided no clear and unambiguous evidence that there has been unrelated and permanent occupation of the site for a continuous period of ten years. Analysis of the Council's survey information, photographic records of the site and the Council Tax records for the site would indicate otherwise. The burden of proof rests with the Appellant and no clear and unambiguous evidence has been provided that would confirm, on the balance of probabilities, that the planning unit as a whole has been used in a manner that would effect a material change of use from that of a travelling showpeople's site.
- 7.5 The proposed use, for the siting of seven static caravans across the whole site would prevent the use of the property for the storage of fairground equipment, vehicles caravans etc and would remove the peripatetic nature that defines the character of the

use²⁰. The City considers that replacing a travelling showpeople's site with 7 static caravans must be considered a material change of use. The City's position is that a material change of use would occur to the planning unit. The combination of the change in the character of the use, which is in itself material, and its effect on the planning unit as a whole , and the resultant off site impacts, notably the effect on the character of Hampstead Heath and the Hampstead Conservation Area would render the use proposed, one that would require planning permission.

- 7.6 The Appellant has indicated in its submission²¹ that there would also be an element of operational development required to facilitate the change of use proposed. No evidence has been provided by the Appellant as to why it considers the operational development proposed to be lawful without formal permission.

²⁰ As suggested by the Appeal Inspector in 1998

²¹ In terms of layout plan proposed and examples of the caravans proposed

8.0 CONCLUSION

- 8.1 For all of the above reasons, it is considered that the Certificate of Lawfulness should not be granted for the use and development proposed.
- 8.2 The use proposed by the Appellant would represent a material change from the existing use of the property and the layout and activity envisaged by the Appellant would also entail operational development for which planning permission would be required.
- 8.3 The use of the Appeal site, solely for the purpose of siting seven static residential caravans, would represent a material change to the use of this planning unit, which currently comprises a mix of activities, as confirmed by both the Appellant and the Council, commensurate with the activities that would be expected of a 'travelling showpeople's site.
- 8.4 There is no evidence provided in the original Certificate application or the Appellant's submission to establish the Appellant's consideration of what constitutes the lawful existing use of the premises, and therefore to support the contention that the proposed use described should therefore be considered lawful. The Appellant has not met the evidentiary test to establish the lawful existing use of the property. In fact, the limited available evidence would not support the assertion that there has been a permanent residential presence within the 'unrelated' caravans on the site for a constant period of ten years.
- 8.5 The use proposed would materially change the character of the site and would prohibit the continuation of the mix of uses, and peripatetic nature of activities on the site that define its existing character.
- 8.6 Without prejudice to the lawful use considerations, which are in themselves considered sufficient to warrant the dismissal of this Appeal, the 'proposal' submitted with the application would appear to require the laying out of access roads, hard standing for the siting of each 'pitch' and, in the examples given, the construction of a brick plinth to site each static caravan. These works would in themselves constitute operational development under S.55 of The Act for which planning permission is required.

8.7 On the basis of the above, the City invites the Inspector to dismiss this appeal.

APPENDIX 1

APPENDIX 2

Photographic Record of Site Activity: 2011



Photographic Record of Site Activity: 2012



Photographic Record of Site Activity: 2012



Photographic Record of Site Activity: 2012



Photographic Record of Site Activity: 2014



Photographic Record of Site Activity: 2015



Photographic Record of Site Activity: Other



Photographic Record of Site Activity: Other



Photographic Record of Site Activity: Other



Photographic Record of Site Activity: Other



Photographic Record of Site Activity: Other



APPENDIX 3



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
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Peter Thomson Associates
125A Lansdowne Way
London SW8 2NP

Your Ref:

Our Ref:

T/APP/X5210/A/97/283311/P4

Date:

07 MAY 1998

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY C & P ABBOTT, MATILDA BIDDALL, VIOLET MILLER, AND VALE
AMUSEMENTS NORTH
APPLICATION NO: PW9702255

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the failure of the Council of the London Borough of Camden to give within the prescribed period notice of its decision in respect of an application for 15 appartement residential units, with ancillary basement car parking, and the creation of an area of public open space at the north fairground site, Vale of Health. I held a local inquiry into the appeal on 17th and 18th February 1998. At the inquiry an application was made by the Council for an award of costs against the appellants. This is the subject of a separate letter.

2. The appeal relates to a site of about 2,214 sq. metres on the edge of the Vale of Health, a small group of about 90 dwellings which is enclosed by Hampstead Heath, an extensive area of public open space administered by the Corporation of London. The site, which is hardsurfaced, is currently used for the storage and maintenance of fairground equipment. It also contains a number of residential caravans and several small structures. A small fair is held on the site several times per year. The site is served by mains electricity, water and sewage, and telephone. It is bounded to the west by 1-4 East View, a terrace of four three-storey cottages, and by the flank wall of 6 The Gables, the end property in a four-storey terrace. To the south is a vacant site, the south fairground site, and a six-storey block of flats which was erected in the 1960s called Spencer House. To the north and east of the site is Hampstead Heath. A number of footpaths across the Heath pass close to the site, including ones leading to the nearby ponds. The site is within the Hampstead Heath Conservation Area.

3. The appeal concerns your clients' proposal to erect a four-storey block of flats on the site, adjoining the eastern flank wall of The Gables. The application drawing shows that the building would have a basement car park and an open ground floor, and above this would be three floors containing 12 four-person flats and three six-person flats. Vehicular access to the site would be from its southern end through the Vale of Health. In response to criticism of the scheme you have proposed that the basement car park should be omitted and that

parking is provided at ground level under the block. In addition, you propose that space be provided under the building for some form of community use, such as a creche.

4. At the inquiry you clarified, at my request, the extent of the public open space which would be provided in the scheme and offered to the City Corporation, although that body has expressed no interest in acquiring this land. While you have previously suggested that up to half of the site would be donated to the City Corporation, you have made clear that this would in fact be the area of roadway at the southern end of the site which adjoins the south fairground site. This roadway appears to be in use already as an informal pedestrian access to the Heath.

5. Planning permission has been granted in the past for residential development on the south fairground site. However, that permission has now expired.

6. Section 54A of the 1990 Act requires that planning applications and appeals should be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. In the present case the development plan is the Borough Plan, which was adopted in 1987, and the Greater London Development Plan (1976), although the latter is now somewhat dated and must carry little weight.

7. The Council is in the process of preparing a Unitary Development Plan (UDP), which will eventually become the development plan. This was placed on deposit in 1993, and objections to the UDP were the subject of a public inquiry in 1995. The Inspector's report into the inquiry was published in 1997. Although the UDP has not yet been adopted, I consider that in accordance with the advice in Planning Policy Guidance Note 1 (PPG1), it must be given considerable weight in view of its advanced stage.

8. Following the lodging of the appeal, the Council resolved that if it were still able to determine the appeal, planning permission would have been refused for the reasons that:

(a) The proposal involves development on Private Open Space and Metropolitan Open Land, contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.

(b) The proposal would be detrimental to the setting and character of Hampstead Heath, contrary to policies LE8, EN66, HR4 contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.

(c) The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.

(d) It is considered that the proposed scheme is excessively bulky and large in relation to the character of the area generally and is thus considered to be overdevelopment of the site.

(e) It is considered that the proposal is inappropriate in terms of its detailed design, height, layout and massing, as well as its ground floor layout, and as such would be detrimental to the special character and appearance of this part of the Hampstead Village Conservation Area.

(f) The proposal does not contain sufficient family-sized dwellings, contrary to policy HG20 contained in the draft London Borough of Camden Unitary Development Plan.

(g) The proposal does not meet Development Control Standards contained in the draft Unitary Development Plan in relation to car parking and servicing.

9. Before I identify my view of the principal issues in this case, I feel it necessary to deal with a legal matter that arises from a principal plank of your case. The Borough Plan and the UDP apply a number of designations to the site, identifying it as being within Metropolitan Open Land and the Hampstead & Highgate Ridge Area of Special Character and comprising Private Open Space. As I understand the argument that you advanced at the inquiry, you believe that these designations should not prejudice the development of the site for residential purposes because they postdate the existing residential use of the site. Moreover, you suggest that the Council has failed to consult local residents such as your clients about the designations proposed in the UDP.

10. In my view your approach stems from a misunderstanding of the planning process. Designations within development plans do not alter current uses on a site but set out the policies which will be applied when applications for planning permission are made. Accordingly, your clients are able to continue any lawful use of the site. In that regard I share the Council's view that the evidence of the history of the site would appear to indicate that the lawful use is probably as winter quarters, as described in Circular 22/91 on travelling showpeople. This is a "sui generis" use which does not fall within any particular Use Class defined in the Town and Country Planning (Use Classes) Order 1987.

11. I do not accept that the Council has failed to carry out its duty to undertake public consultation on the UDP. The statutory procedures all appear to have undertaken, and there is no requirement for the Council to consult individual landowners as you seem to believe.

12. You expressed particular concern about the comment about the site in Appendix PR2 of the UDP, which identifies individual private open spaces. This states that the "site should not be used for residential purposes or used for the storage of trucks, lorries, caravans or trailers or used for commercial purposes other than three bank holidays each year when it may be used as a small scale fairground. Part of site MOL1". While I understand your concern, it is clear from the evidence given by the Council that no reliance is placed on this comment, which does not form part of policy C7. Moreover, the Council indicated that the desirability of retaining the comment will be carefully considered before the eventual adoption of the UDP. Accordingly, I do not regard the comment as being relevant to my determination of the appeal.

13. From my consideration of the matters raised at the inquiry, it is my opinion that the principal issues in this case are:

(a) whether the proposal would conflict with the designation of the site as Metropolitan Open Land and Private Open Space.

(b) the impact of the scheme on the Area of Special Character and the Hampstead Village Conservation Area.

(c) whether the proposal would result in the overdevelopment of the site.

- (d) whether the proposal would have an acceptable housing mix.
- (e) whether the proposal would prejudice the free flow of traffic.
- (f) whether the site is unsuitable for development for geological reasons.

14. With regard to the first issue, the designation of the site as Metropolitan Open Land goes back to the Greater London Development Plan, while the designation as Private Open Space is even older as the site is so indicated in the London County Council Initial Development Plan of 1962. Government Guidance makes clear that within Metropolitan Open Land there is the same presumption against development that applies in the Green Belt. Residential development is not within the list of appropriate uses given in guidance, and accordingly the proposal fundamentally conflicts with Metropolitan Open Land policy. The limited residential use of the site by the present occupiers does not in my opinion provide the very special circumstances needed to justify the redevelopment of the site as an exception to the policy, as you seem to suggest. Moreover, in my view the somewhat untidy appearance of the site does not preclude its valuable role as part of Metropolitan Open Land.

15. Similarly, the purpose of the designation of areas as Private Open Space is to protect the character of sites for which there is no public access, but whose open nature provides a public benefit. The occasional use of the site as a fairground accords with both Metropolitan Open Land policy and the Private Open Space designation. Moreover, I share the Council's view that the existing low intensity of its current use enables the site to provide a soft edge to the Heath and a transition to the built form of the dwellings in the Vale of Health. However, the erection of more substantial structures on the site, as you propose, would clearly not accord with the objectives of planning policies on this matter as it would inevitably alter its present open character. The scheme goes far beyond the ancillary type of development which might be acceptable.

16. Turning to the second issue, the Council considers that the development of this effectively open site would harm the setting and character of this part of the Conservation Area and adversely affect the Area of Special Character, whose principal feature is of course the Heath. Particular concern is expressed about the four-storey height of the proposed building, its proximity to public footpaths around the site, and the uncertainty about the use of the ground floor. A number of detailed criticisms are made of the proposed elevational treatment of the building. The Council is supported in this view by local residents and amenity societies.

17. I share these concerns. As the appeal site is currently undeveloped, in the sense of having no significant buildings upon it, the eastern edge of the Vale of Health is effectively set by Spencer House, East View and the flank wall of The Gables. In my view development beyond this line would inevitably intrude into a variety of views both into and out of the Vale of Health. It would thereby harm the setting of the Conservation Area and the character of this part of the Heath, whose protection is a major objective of the Borough Plan and the UDP. The substantial height and bulk of the proposal would increase that harm. While some of these views are partially restricted by topography and planting within the Heath, as you suggest, the impact of the building would nevertheless remain.

18. Moreover, the general character of the Vale of Health is one of dwellings on relatively narrow plots, usually two or three storeys in height. Accordingly, a four-storey block of flats

occupying a single large site would appear out of place. While I have noted the substantial bulk of Spencer House, that is widely agreed not to be an example of the type of sensitive development which could reasonably be expected on a site as significant as this. In addition, the proposed elevational treatment of the building would not in my view be sympathetic to the predominantly Victorian character of the Vale of the Health. Therefore, in my opinion the proposal would have an unacceptable impact on both the Conservation Area and the Area of Special Character.

19. Moving to the third issue, the Borough Plan sets a density standard of 70-100 habitable rooms per acre (hra), but this is reduced in the UDP to 40-70 hra. The calculations made at the inquiry after you had clarified the area of the site to become public open space suggest that the proposal would be above this figure (the Council gives a figure of 84.2 hra and you believe that it would be 89 hra). However, in both the Borough Plan and the UDP higher density figures are regarded as being acceptable for sites close to public open space (policies HG23 and HG13 of the Borough Plan and UDP respectively). This is clearly such a site, because of the close proximity of the Heath. Therefore, I do not regard the density of the scheme as unreasonable.

20. As regards the fourth issue, Borough Plan policies HG30-32 and UDP policy HG20 seek to provide family-sized accommodation in all new housing developments. UDP policy HG20 encourages such schemes to comprise at least 50% of units that are suitable for families or larger households, ie. having four bedspaces in three or more bedrooms. In the present case the Council suggests that at least one-third of the units should be of this size. As only three of the 16 flats in the present proposal would have three bedrooms, the development would not accord with current planning policies on this issue. Nevertheless, as it would appear to be a relatively easy matter to adjust the housing mix, this does not seem to be as significant an objection to the scheme as other matters raised by the Council.

21. In considering the question of parking, I have noted that the Council accepts that the scheme as submitted would provide sufficient parking spaces to meet its standards but raises concern about the layout of the proposed basement parking area. The deletion of this element of the scheme, as you now propose, should deal with this matter, and it would appear to be possible to provide an appropriate number of parking spaces at ground level under the building. My major concern on this issue is that the application does not make clear how much of the site will be taken up by vehicle circulation, and the impact of this provision on the open space left for the use of occupants of the scheme. However, this could be the subject of a planning condition.

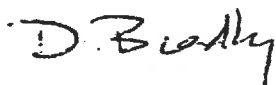
22. Local residents drew my attention at the inquiry to the extent of on-street parking on the narrow streets of the Vale of Health and the resulting difficulties experienced by motorists. However, I am not persuaded that your proposal would exacerbate these problems, since it would seem to be possible to make provision for parking within the site for the vehicles associated with the development. The period of construction of any building would inevitably generate some additional activity, but this would be balanced by the loss of traffic associated with the movement of the large vehicles currently used by your clients to carry fairground equipment to and from the site. Moreover, conditions could be imposed on the hours of construction work, the times of deliveries of building materials and the storage of such materials within the site to protect the amenity of local residents in this period. Therefore, I do not regard this as a determining issue in the appeal.

23. Turning to the final issue, Planning Policy Guidance Note 14 makes clear that the stability of the ground in so far as it affects land use is a material consideration which should be taken into account when deciding a planning application, and that it is not the responsibility of the local authority to investigate the ground conditions of any particular development site unless it proposes to develop it. In the present case substantial evidence was given by local residents to suggest that the site is in an area with unstable geological/subsoil conditions, and that it is also crossed by a watercourse, and is therefore unsuitable for development. Although I have noted the absence of problems of stability resulting from the present use of the site, the construction of a substantial building must raise additional considerations. Accordingly this must be a further concern about the proposal.

24. Therefore, to summarise, I consider that the scheme would conflict with the policies of the development plan and the emerging UDP which are designed to protect Metropolitan Open Land, Private Open Space, the Conservation Area and the Area of Special Character. Moreover, I am also concerned at the desirability of developing a site with a significant likelihood of geological problems. Accordingly, while I believe that the issues of housing mix, density and car parking can be resolved, I have concluded that the appeal should not be allowed. I have taken into account all the other matters raised at the inquiry and in the representations, including your clients' long history on the site and their offer to donate land for use as public open space. I have also noted the correspondence since the inquiry about the ownership of this land. However, these matters do not outweigh the considerations that have led to my decision

25. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal, and refuse planning permission for the development described in paragraph 1.

Yours faithfully



DENNIS BRADLEY BSc (Econ) DipTP MRTPI
Inspector

APPENDIX 4

Neutral Citation Number: [2013] EWHC 101 (Admin)

Case No: CO/149/2012 & CO/532/2012

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/02/2013

Before :

PHILIP MOTT QC
Sitting as a Deputy High Court Judge

Between :

WINCHESTER CITY COUNCIL
- and -
SECRETARY OF STATE FOR COMMUNITIES
AND LOCAL GOVERNMENT
- and -
MR M WALL, MR M BLACK, MRS S WALL,
MR D BIRCH, MR D CARTER, MR M JAMES

Claimant /
Appellant

1st Defendant /
Respondent

2nd Defendants
/ Respondents

(Transcript of the Handed Down Judgment of
WordWave International Limited
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Official Shorthand Writers to the Court)

Trevor Ward (instructed by **Winchester City Council**) for the **Claimant/Appellant**
Stephen Whale (instructed by **Treasury Solicitor**) for the **1st Defendant/Respondent**
Michael Rudd (instructed by direct access) for the **2nd Defendants/Respondents**

Hearing dates: 25 January 2013

Judgment
As Approved by the Court

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Philip Mott QC :

1. On 9 December 2011 a Planning Inspector appointed by the Secretary of State for Communities and Local Government (“SSCLG”) issued a Decision Letter in respect of six appeals against enforcement notices issued by the Winchester City Council (“WCC”) and one appeal against the failure of WCC to determine a planning application submitted to it (“the planning appeal”). The Inspector quashed the enforcement notices and took no further action on the planning appeal.
2. WCC now applies for permission to appeal under section 289 of the Town and Country Planning Act 1990 (“the 1990 Act”) against the quashing of the enforcement notices, and challenges under section 288 of the 1990 Act the decision on the planning appeal.
3. By consent it was ordered on 8 March 2012 that the two matters be heard together, and that the substantive and permission stage in relation to the section 289 appeal be held together as a rolled up hearing.
4. I have concluded that permission should be granted under section 289 and the appeals allowed. As a result, it is agreed, the matter will have to go back to the SSCLG to appoint another Inspector to determine the enforcement notice appeals afresh. As to the section 288 challenge, I dismiss this on the merits and on a discretionary basis.

Background

5. The premises concerned are at Carousel Park, Basingstoke Road, Micheldever, Hampshire. On 16 April 2002 a planning application was submitted for “Change of use of land to travelling showpeople’s use”. The existing use of the land was stated to be “Redundant agricultural”. A block and location plan was submitted which was not put before me.
6. On 2 October 2003 permission was granted for “Change of use of agricultural land to travelling showpeoples’ site” in accordance with the plans and particulars submitted with the application, subject to 15 conditions. The relevant conditions for present purposes are as follows:
 4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan for each pitch indicating the positions, design, materials and type of boundary treatment and gates to be erected, the position of all areas of hardstanding and storage, the position and sizes of all residential caravans and any other temporary or permanent structures or buildings and the areas of open amenity space. Development shall be carried out in accordance with the approved details before the pitches are first occupied.
 5. No vehicles, equipment, caravans, mobile homes or other structures on the site are to exceed 4.5 metres in height above ground level.

7. No maintenance, repairs or testing of equipment or vehicles shall be carried out other than between the hours of 0730 and 1800 Monday to Friday and 0730 and 1800 Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

10. There shall be a maximum of three caravans or mobile homes occupied for residential purposes on each pitch. Any additional touring caravans used by the travelling showpeople may be stored within the defined storage areas but may not be occupied for residential purposes at any time.

11. There shall be no more than 9 family pitches on the site and the pitches may not be sub-divided at any time.

13. In the event that the site ceases to be used for the purposes of travelling showpeople, it shall be restored to its former condition. All structures, hardstandings, equipment, vehicles and materials brought onto the site in connection with the use shall be permanently removed from the land within 12 months of the use ceasing.

15. No more than 50 people shall occupy the site at any time.

7. None of the conditions attached to the planning permission expressly restricted the occupation of the site to travelling showpeople, as they could have done.
8. At the same time as the grant of the planning permission a section 106 agreement was entered into, which was designed to restrict the occupation of the site to travelling showpeople. However it appears to have been defective, and in any event was not expressly incorporated into the planning permission as it could have been.
9. Enforcement notices were issued by WCC on 6 September 2010 because it was thought that the site was being occupied by gypsies and travellers who were not travelling showpeople. Whether this is so in fact is disputed. The notices alleged that this constituted a material change of use from that permitted by the 2003 planning permission. Whether such a change of use would be “material” is also disputed. Neither issue has been the subject of any finding on appeal to the Inspector, and neither arises for determination in these proceedings.
10. The notices were appealed on a number of grounds, as follows:
 - (a) that planning permission should be granted for the breach of planning control alleged;
 - (b) that the matters alleged had not occurred;
 - (c) that the matters, if they occurred, did not constitute a breach of planning control;
 - (d) that at the date the enforcement notice was issued no enforcement action could be taken against the matters alleged to be in breach;

- (f) that the steps required by the enforcement notice to remedy the breach of planning control were excessive;
 - (g) that the period for compliance specified in the notice to remedy the breach of planning control fell short of what should reasonably be allowed.
- 11. At the appeal hearing the notices were amended by agreement, and Grounds (c) and (d) were withdrawn in their entirety. The Inspector decided the appeals only on one limb of Ground (b), namely that the planning permission should be interpreted as being simply “use as a residential caravan site” and not restricted to travelling showpeople. He made no findings in respect of the remaining limb of Ground (b), which was that the occupants were in fact travelling showpeople. He also did not consider Grounds (a), (f) or (g), and took no further action on the planning appeal.
- 12. The basis of the Inspector’s decision to allow the enforcement notice appeals was one of law, as he acknowledged. It arose from the decision of this court in *I’m Your Man Limited v Secretary of State for the Environment* (1999) 77 P&CR 251, a decision of Robin Purchas QC sitting as a Deputy High Court Judge. The Inspector set out his interpretation in paragraph 23 of his Decision Letter:

“I acknowledge that it is a matter of law but in my view, *I’m Your Man* decided a point of principle concerning limitations on planning permissions; it was not concerned with the detail of what type of limitation was being debated. In these circumstances I conclude that it is clear that the 2003 planning permission is not limited as there is no condition attached to it that restricts occupancy and the legal agreement, which does contain a restriction, was not incorporated into the permission.”
- 13. Having concluded that he could not look to the terms of the section 106 agreement as it was not incorporated into the terms of the planning permission (a conclusion which is not challenged in this appeal), he concluded in paragraph 26 of his Decision Letter:

“Taking all these factors into consideration I conclude that the 2003 permission, in line with the decision in *I’m Your Man*, is for the use of the land as a residential caravan site with no restrictions on who may occupy the site. In those circumstances the appeals succeed on ground (b) and the notices as corrected and varied will be quashed.”

Planning permission and enforcement notices

- 14. Section 57 of the 1990 Act provides that, in general, “permission is required for the carrying out of any development of land”. By section 55(1) “development” is defined as including “the making of any material change of use of any buildings or other land”.
- 15. Section 55(2) provides that certain operations and uses of land shall not be taken to involve development. They include, by paragraph (f), “in the case of buildings or other land which are used for a purpose of any class specified in an order made by the

Secretary of State under this section, the use of buildings or other land ... for any other purpose of the same class”.

16. The Secretary of State has made such an order setting out various categories known as “Use Classes” in the Town and Country Planning (Use Classes) Order 1987. Uses which do not fall within any use class are considered “sui generis”. These will include, for instance, theatres, scrapyards and petrol filling stations.
17. Section 75 of the 1990 Act sets out the effect of planning permission. It is a grant which enures for the benefit of the land, and thus runs with the land. The section continues:
 - (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used.
 - (3) If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
18. Section 171A of the 1990 Act provides that:
 - (1) For the purposes of this Act –
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
19. Section 172 allows the local planning authority to issue an enforcement notice where it appears to them that there has been a breach of planning control, and that it is expedient to issue the notice.

I'm Your Man Limited

20. The case concerned a permission granted to use two aircraft hangers for sales, exhibitions and leisure activities “for a temporary period of seven years”. No condition was imposed to require cessation of that use at the end of the seven year period. The court held that there was no express or implied power for a local planning authority to impose limitations on a planning permission, and so the grant of permission was a permanent one.
21. The Judge noted that there is an express power, in section 60(1) of the 1990 Act, for permission granted by a Development Order to be subject to such conditions or limitations as may be specified in the Order. Section 70(1), which allows a local planning authority to grant permission, allows the imposition of conditions, but gives no power to impose limitations. Therefore, he concluded, there was no such express power, and none should be implied.

22. The Judge dealt with a submission that the time limit was part of the use authorised by the permission, so that “the use itself should be seen as a use limited for that period”. He rejected this submission, saying:

“I have doubt whether the character of a use for the purpose of section 55(1) of the 1990 Act can properly include without more whether the use was temporary or permanent. Change of use is from one use or non-use to another use and should be considered in terms of the character of the use of the land. Materiality for the purposes of section 55(1) should be judged as a matter of degree on a comparison between the use before and after the change. I do not consider that generally the character of a use would alter whether it was to last for one year or seven years or was permanent. In most cases the use of the land on each basis would be for planning purposes identical.” [emphasis added]

23. The appeal in *Jeffery v First Secretary of State & Teignbridge District Council* [2007] EWCA Civ 584 was decided on the basis of a concession that *I’m Your Man* applied and was correctly decided. Both Jacob LJ and Hughes LJ expressly reserved the question of whether that was so.

24. The Divisional Court in *R (Altunkaynak) v Northamptonshire Magistrates’ Court* [2012] EWHC 174 (Admin) expressly approved *I’m Your Man*, and applied it to a case where permission to use premises at 15B Silver Street Kettering as a hot food takeaway was expressed to be “as an extension to the present premises at number 15”. The Court held that these words were not valid to limit the way in which the new use of number 15B could be exercised. Indeed, in paragraph [39] Richards LJ said:

“But the reasoning in *I’m Your Man Limited* contains nothing to justify confining its application to temporal limitations. 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.”

25. Clearly the *I’m Your Man* principle means that when permission is granted for a certain use, any limitation on the way in which that use is exercised must be imposed by condition. It does not matter whether the limitation is by way of a time limit (as in *I’m Your Man*), or by linking it to the use or occupation of other premises (as in *Altunkaynak*). Nor is the principle limited to those two examples.
26. The underlying principle, as explained in *I’m Your Man*, is that “limitation” is a technical term used in the statute only when imposed by Development Order. Any restriction seeking to have the effect of a limitation, but imposed by a local planning authority, can only be effective if included in a condition.
27. That leaves the question of what use is permitted by a grant of permission, as opposed to any restriction or limitation on that use. Where the permission is also for the erection of a building, section 75 applies. Where the use described is covered by one of the specified use classes, it will cover all uses within that class unless restricted by

conditions. But where, as here, the permitted use (however it is defined) is “sui generis”, the description or definition of the use permitted must come from somewhere.

28. It cannot be that, absent a specified use class, planning permission for change of use must be interpreted as permission to do absolutely anything, unless that freedom is circumscribed by conditions. Neither Respondent espoused such a proposition. Both argued that the grant is to be found from the planning permission as a whole, including the application and plans if (as here) they are incorporated into the permission by reference.

Submissions

29. Mr Ward submits on behalf of WCC that the 2003 grant of permission was for a “sui generis” use as a travelling showpeoples’ site. The *I’m Your Man* principle does not apply because WCC are not seeking to rely on any restriction or limitation on that use. The limits on permitted use come from the grant itself, not from any derogation from or limitation upon that grant, which it is accepted would have to be imposed by condition. The grant of permission for use as a travelling showpeoples’ site defines the character and nature of the use itself. If the words “travelling showpeople” have no functional significance in planning terms, there is nothing left in the grant to explain the use permitted.
30. In support of those submissions, Mr Ward relies additionally on *Wilson v West Sussex County Council* [1963] QB 764, where the word “agricultural” attached to the word “cottage” was held to be of “functional significance”, not merely architectural or descriptive. Whilst the case may be distinguishable, and I do not rely on it as authority for my conclusion, it points to the fact-specific issue of construction of the permission actually granted in an individual case.
31. In like manner, Mr Ward cites *Williamson and Stevens v Cambridgeshire County Council* (1977) 34 P&CR 117, a Lands Tribunal interim decision, and *Waverley District Council v Secretary of State for the Environment and Miller and Davies* [1982] JPL 105, where Hodgson J concluded on the particular facts that the word “cattle” when attached to “transport lorries” had a functional significance. I look on these cases as merely examples of the application of normal principles of construction to particular facts.
32. For the First Respondent, Mr Whale submitted that WCC could and should have imposed a condition. It is not doubted that it could have done so, and therefore there is no need to strain construction of the planning permission to accommodate its failure. The First Respondent relies heavily on *I’m Your Man* and *Altunkaynak*. In addition, reference is made to *Smout v Welsh Ministers* [2011] EWCA Civ 1750, in which a submission that permission to develop land in phases A-F meant that the development had to be carried out in alphabetical order was roundly dismissed by the Court of Appeal.
33. Mr Whale accepted that there must be some limit on the use to which the land could be put, and submitted that this came from the whole of the application, plans and permission. Whether a descriptive word was significant would depend on the circumstances. He agreed that *I’m Your Man* was not authority for a proposition that

the wording of the permission could simply be ignored, but the answer would come from the whole suite of documents.

34. Mr Whale also accepted that there was a practical and visual difference between a site for travelling showpeople and one for general residential use, or even one for gypsies and travellers, but did not accept that they would amount to a different planning use or that there was any significant land use distinction.
35. Mr Rudd, for the Second Respondents, made submissions similar to those of Mr Whale. He too submitted that there is no fundamental difference in land use terms between travelling showpeople, gypsies and travellers, or New Age travellers.

Travelling showpeople

36. There is a longstanding recognition of the particular needs of travelling showpeople. Circular 22/91 was effective at the time of the grant of permission in 2003. It described the category as follows:

“2. Showpeople are self-employed business people who travel the country holding fairs, chiefly during the summer months. Although their work is of a peripatetic nature, showpeople nevertheless require secure, permanent bases for the storage of their equipment and more particularly for residential purposes. Such bases are most intensively occupied during the winter, when many showpeople will return there with their caravans, vehicles and fairground equipment. For this reason, these sites traditionally have been referred to as “winter quarters”. But increasingly showpeople’s quarters need to be occupied by some members of the family permanently; older family members will stay on for most of the year and there are plainly advantages in children living there all year to benefit from uninterrupted education.”

37. The Circular goes on to distinguish showpeople from gypsies, and points out that:

“4. The nature of showpeople’s sites is unusual in planning terms. The sites illustrate the showpeople’s characteristic self-sufficiency by combining residential, storage and maintenance areas. Typically a site comprises areas set aside for the showpeople’s accommodation – usually caravans and mobile homes – and areas where vehicles and fairground equipment can be stored, repaired and tested. This means that the sites do not fit easily into existing land-use categories. Some of the difficulties showpeople have experienced with the planning system can be attributable to this.” [emphasis added]

38. In August 2007 new Guidance was issued, headed “Planning for Travelling Showpeople”. This was in force at the date of the appeal to the Inspector. It repeats the passages quoted above in substantially the same terms. It also comments, at paragraph 9(a), that “Travelling showpeople do not in general share the same culture or traditions as Gypsies and Travellers”.

39. In March 2012 a new document was issued by the Department for Communities and Local Government entitled “Planning policy for traveller sites”, which covers both travelling showpeople and gypsies and travellers. The Glossary makes clear that “travelling showpeople” are distinct from “gypsies and travellers”, who are excluded from the former group definition.
40. None of these documents can be used to change or even interpret the terms of the planning permission granted, but in my judgment they do point to the following conclusions:
- i) Travelling showpeople are a distinct group, which does not include gypsies and travellers.
 - ii) As a group they have their own particular planning needs.
 - iii) There is a distinction, significant in planning terms, between the use of land for travelling showpeople and its use by gypsies and travellers.
 - iv) Even more so, there is a distinction, significant in planning terms, between the use of land for travelling showpeople and its use as a residential caravan site.

Discussion

41. Having concluded that a travelling showpeoples’ site may be a significant and separate land use in planning terms, the next question is whether the 2003 planning permission, on its proper construction, granted permission only for that use.
42. The fundamental question is whether this was a limited grant of permission to use the site as a travelling showpeople’s site, or an attempt (which would be ineffective as a result of the *I’m Your Man* principle) to impose a limitation or restriction on a more general grant.
43. The Inspector did not address this question, having come to his decision on the basis that *I’m Your Man* provided an entire answer as a matter of principle, regardless of the details of the particular case.
44. It would be possible simply to allow the appeal and leave a second Inspector to come to a conclusion. Since this is very much a question of law (though heavily fact-specific), I think it just and proportionate to come to a conclusion myself.
45. The unifying feature of *I’m Your Man*, *Altunkaynak* and *Smout* is that the use remained the same, with or without the purported restriction or limitation. The restrictions all related to the manner in which the use could be exercised, not as to the extent of the use itself. This case is very different, because the issue turns on the extent of the use itself.
46. In my judgment everything points to the 2003 grant being one of permission to use the land as a travelling showpeoples’ site. Not only is this what was applied for, and was granted in the short description, it is also consistent with the conditions which I have set out in paragraph 6 of this judgment. Nowhere is it described as a residential caravan site, nor are the conditions taken as a whole appropriate for such a site. The only sensible construction is that it was a site for travelling showpeople only.

47. In short, this was not the grant of permission to use the land as a residential caravan site, with an ineffective attempt to limit that use to travelling showpeople. It was the grant of permission to use the land as a travelling showpeople's site, which is a distinct and narrower use, without any further attempt to limit that use.

s.288 application

48. The planning appeal arose out of an application dated 7 October 2010 by Mr Black for permission for "Use of land as travelling showmans site". The existing use of the land was described on the application form as "Travelling Showperson site". WCC accepted and processed the application, but made no determination within the time provided under the law.

49. In those circumstances the applicant is entitled to appeal to the Secretary of State under section 78(2) of the 1990 Act. The powers of the Secretary of State (exercised through an Inspector) are set out in section 79(1) as follows:

(1) On an appeal under section 78 the Secretary of State may –

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

50. In the present case the Inspector decided that the permitted use was already wider than that applied for, and therefore took no further action on the section 78 appeal.

51. Mr Ward submits that the Inspector had no power to take no further action. He had either to allow or dismiss the appeal. The powers under section 79(1)(b) do not apply where there has been no decision by the local planning authority. Although the Inspector has the further power to deal with the application as if it had been made to him in the first instance, that did not include taking no action. The power of a local planning authority to decline to determine planning applications is very limited and none of the relevant circumstances applied here.

52. Mr Whale submits that this Court has no jurisdiction to entertain this challenge under section 288 of the 1990 Act. That section only applies (in a case such as this) where there has been "any decision on an appeal under section 78" (see section 284(3)(b)). It does not apply where the Inspector has taken no further action, and therefore not made any decision on the appeal. He cites, by parity of reasoning, *Golding v SSCLG* [2012] EWHC 1656 (Admin) at paragraphs [40] to [43]. WCC's only remedy would have been by judicial review, and it is now far too late for that.

53. Alternatively, Mr Whale submits, the Inspector had the power to act as he did by virtue of the concluding words of section 79(1), and it was a perfectly reasonable decision since the application was for the same use as was granted in 2003 on any interpretation of that permission.

54. In an attempt to understand the practical significance of the decision to take no further action, I asked Mr Whale what would happen if the section 289 appeals succeeded. He had no instructions, but expressed the view that the Secretary of State would be unlikely to reopen the planning appeal.
55. Mr Rudd submits that the 2010 application was wider in terms than the 2003 permission as interpreted by WCC, but became superfluous once the Inspector had decided as he did. Mr Rudd supported the submissions of Mr Whale and did not seek, on behalf of his client, to have the planning appeal reopened, even if the section 289 appeals succeeded.
56. I do not need to decide whether this challenge should have been brought by way of judicial review. My preliminary view is that a challenge under section 288 is available, because in my judgment the Inspector did make a decision on the appeal, but it was one which he was entitled to make.
57. WCC did not rely on any specific powers to decline to determine the 2010 application. As Mr Ward said, none of those circumstances applied. WCC simply made no decision and let the time for doing so elapse. In other words, they accepted and processed the application but then took no further action. The Inspector was entitled to deal with the appeal as if the application had been made to him in the first instance. He did exactly what WCC did.
58. If I am wrong about the legal position, I would also refuse relief under section 288 on discretionary grounds.
59. Mr Ward sought to argue that it was important to have the file closed. That is a curious submission when his own client did nothing to conclude the application. If Mr Black had not appealed, the file would still nominally be open. In any event, it seems to me that the only person with any interest in having the appeal re-opened is Mr Black, and Mr Rudd on his behalf has declined to support this challenge.

Conclusion

60. I will leave counsel to agree the appropriate form of order. If there are any issues about costs, these should if possible be decided on written submissions.

APPENDIX 5

ABBOTT
 UNRELATED
 WINTER STORAGE
 FAIR HELPER
 GONE TO FAIR IN JULY

SHOWER PERSON USE

PEDESTRIAN ENTRANCE

OWNER	Charles Abbott
STATUS	Empty
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	For rent

EMPTY

OWNER	Robert Doss
STATUS	Occupied
OCCUPATION	Shed
ADDITIONAL ON SITE PARKING	1 car & 1 van
NOTES	

OWNER	Life
STATUS	Empty
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	Used as private laundry

OWNER	Life
STATUS	Empty
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	Used as private laundry

OWNER	Life
STATUS	Occupied
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	

OWNER	Emmanuel
STATUS	Empty
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	

EAST VIEW

OWNER	Robert Doss
STATUS	Occupied
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	

OWNER	Robert Doss
STATUS	Occupied
OCCUPATION	
ADDITIONAL ON SITE PARKING	
NOTES	For rent

SITE ENTRANCE

PEDESTRIAN ENTRANCE

Bin Storage

SPENCER HOUSE

(BASED ON SURVEY IN JULY 2010 + SUBSEQUENT INFORMATION)

Key:



Winter Equipment Storage (Nov. - Mar.)

NORTH FAIRGROUND SITE

Notes: Caravans and sheds marked with * are based at the site during the winter months only. Facilities include wc's and laundry.

PLANNING

DO NOT SCALE FROM THIS DRAWING - verify all dimensions on site

VALE OF HEALTH	
Site Plan	
1:250 @ A3	
FEB. 2010	001-01

REVISED MARCH 2011



1. ROBERT DARK
2. CHARLES + OLGA ABBOTT
3. CHARLES JUNIOR A.
4. C4 A
5. JOHN HAYES + CHARLOTTE + 3 CHILDREN
6. JOHN EDWARDS
7. HENRYK ELARK
8. H.H. WORKERS x 4
- = SHOW PEOPLE

RESIDENTS = 4 ABBOTTS (1 FULLTIME RETIRED)
 4 HAYES

1 FAIRHELPER
 4 FAIRWORKERS (TEMPORARY)
 9 UNRELATED

{	4		ABBOTT	}	SHOW PEOPLE
	4		HAYES		
	14		EQUIPMENT/RIDES		
	5		STORAGE FOR FAIRS + RESIDENTS		
	1/2		FAIR HELPER + VAN		
	4		FAIR WORKER (TEMPORARY AT WINTER WONDERLAND)		
	9		UNRELATED + LANDROVER OR EMPTY		

NORTH
 FAIRGROUND
 SITE SURVEY
 NOV 2017
 (10-11-17)

APPENDIX 6

CARAVAN 1, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5135728	Deleted		10/04/2014	No	

CARAVAN 2, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5148393	Deleted		17/03/2017	Yes	

CARAVAN 3, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5176745	A		01/02/2014	No	

CARVAN 3, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5137449	Deleted		05/05/2008	No	

CARAVAN 5, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5142614	Deleted		01/06/2008	No	

CARAVANS 4 & 5, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5149321	A		05/05/2008	No	

CARAVAN 6, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5139839	Deleted		10/04/2014	No	

CARAVAN 7, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5138267	Deleted		10/04/2014	No	

APPENDIX 7

VOA Ratings Records

Summary valuation for

Showpersons Site, Vale Of Health, London, NW3 1AT

Current valuation		Other valuations	
Description	Caravan & pitch and premises	Special category code	048S
Local authority reference	00078000010008	Effective date	1 April 2017
Transitional Relief certificate issued		No ?	

The rateable value is rounded down to

£18,000

This is not the amount you will pay. The rateable value is used to calculate your rates bill.

This is the summary valuation.

If you're the owner or occupier, you can register or sign in and claim this property to:

- view the detailed valuation
- confirm your property details or tell us that something is incorrect (check)
- tell us that you disagree with the valuation (challenge)

[Register](#)

Already registered? [Sign in](#)

How the valuation was calculated

The Valuation Office Agency (VOA) puts similar properties into a group called a valuation scheme and:

- applies a range of values per m² (or unit) to the valuation scheme
- applies a base rate to individual properties in the scheme

The rateable value of this property is the sum of all the rates given to its different parts, rounded down to **£18,000**.