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

PUBLIC INQUIRY

RESPONSE OF PAUL O'NEILL TO THE PROOF OF MR N. LAISTER

THE CITY OF LONDON CORPORATION

APPEAL REFERENCE: APP/X5210/18/3198526

SEPTEMBER 2019

1. I have had the opportunity to review the proof of Mr Laister submitted on 22 August 2019.
2. I note that Mr Laister states that he proposes to rely on the proof of evidence of Mr Eiser. I further note that Mr Laister does not express any disagreement with Mr Eiser's evidence. Given that the content of this proof is limited and there is an express agreement to rely on the evidence already submitted by the Appellant's previous consultant, I have limited comments to make on Mr Laister's Proof.
3. Mr Laister does not directly address my view that the existing lawful use of the Site is as a Travelling Showperson's Site and not a mixed use. As a consequence, he does not address whether a change of use from Travelling Showperson's Site to a site for 7 static caravans would be a material change of use. As set out in section 5 of my proof, I consider that such a change would plainly represent a material change of use.
4. The paragraphs that follow address Mr Laister's evidence on the basis (with which I do not agree) that the existing lawful use of the site is that of a mixed use constituting Travelling Showperson's Site and unrelated residential caravans.
5. In relation to the points raised in paragraph 4 of his Proof, Mr Laister differs in emphasis from Mr Eiser's characterisation of the on-site and potential off-site effects of the proposal. Mr Laister suggests that the use proposed would not be materially different because:
 - a) *'there is no requirement for any, or any specific, level of equipment to be sited here'*;
 - b) *'nor any requirement for a specific balance between the residential units occupied by showpeople and by those not involved in the fairground business'*;
 - c) there will be *'no noticeable difference between a residential unit occupied by a showperson and one occupied by a person not involved with the fairground business'*;
 - d) there will be *'no noticeable off-site effects, other than a likely reduction in traffic'*.
6. I deal with each of these points in turn below.

7. In relation to point a), I acknowledge that there is no requirement of limitation on the storage of fairground equipment associated with a showperson's site and I have dealt with this point in my evidence (para 5.15). The cessation or removal of a particular activity on a mixed use site is not in itself sufficient to change the use of that site and this position is confirmed in case law. The removal of storage alone would not in my view be sufficient to result in a material change of use.
8. In relation to b) and c), in my evidence I consider the character of the site as a whole, including the peripatetic nature of occupation and other elements and activities that characterise a Travelling Showperson's Site. Contrary to what is suggested by Mr Laister, the occupation of each caravan, be it by a travelling showperson or an 'unrelated' person, is not the sole matter that one has to consider when considering the character of the use of the planning unit as a whole. The Appeal proposal is considering whether it is lawful for all of the elements of a Travelling Showperson's Site to cease, other than occupation of caravans, and for the whole of the site to be subsumed for use by a residential static caravan site. I address this matter in my evidence in paras 5.12-5.21.
9. In relation to d), Mr Laister's contention that there would be no noticeable off site affects '*other than a likely reduction in traffic movements*' would seem to confirm my assertion that a change in character would result from the use of the site for solely residential purposes. There may, as agreed by Mr Laister, be a change in traffic movements as a result of use of the site for solely residential caravans. Whether this is a reduction is beside the point. The change from the peripatetic use to a more settled level of activity would be a change in character. The planning merits of any change in terms of traffic movement would be a matter of planning judgment that would correctly form part of the consideration of a full planning application, were one to be submitted, and would support my assertion that an application for a Certificate of Lawfulness is not a suitable form of application for the consideration of the use proposed.
10. In paragraph 5 of Mr Laister's proof, he contends that Travelling Showperson's Sites can be '*almost indistinguishable to a residential caravan site*'. To assert that there would be no material difference between a residential caravan site and a showperson's site, if all that remains is the residential caravans, would seemingly ignore the position set out in previous Circulars and Planning Policy for Traveller Sites, in addition to the provisions of legislation and case law, where Travelling Showperson's Sites are

explicitly acknowledged as being different in character and use to other sites with communities occupying caravans on either a permanent or temporary basis, and separate and distinct provisions are applied as a result. This matter was considered in *Winchester City Council v SSCLG* [2013] which is summarised at para 4.15 of my evidence.

11. With regard to paragraphs 6 and 7 of Mr Laister's proof, I have set out my position as to what I consider to be operational development to facilitate the use proposed. This was based upon the indicative site layout and images of the suggested caravans provided by the Appellant at application stage. The elements included would in my view constitute material development as defined in The Act. As the site and the lawful existing use do not benefit from any form of permitted development rights, if these works are considered development then it follows that planning permission would be required. On the issue of operational development and the distinction in land use planning terms between a Travelling Showperson's Site and a residential caravan site, I note that Travelling Showperson's Sites are exempt from caravan site license requirements. Residential Caravan sites are required to have a licence, and upon grant of this licence, benefit from rights set out in Schedule 2, Part 5, Class B of the General Permitted Development Order 2015. This part of the GPDO allows, as permitted development, any development required and specified as a condition of a site licence. It is conceivable that a number of the elements of development required by a licence could be considered to have on-site effects, or in the case of lighting for example, off-site effects. Unlike residential caravan sites, Travelling Showperson's Sites (winter quarters) are exempt from the requirement to obtain a site licence and do not benefit from the provisions of Part 5 of the GPDO – the two land uses are treated differently in legislation. The appeal proposal would take the site from a position where it does not currently benefit from permitted development rights, to a position, where, if the appeal were allowed, the site would have to be licensed and in doing so, would benefit from such rights. I would contend that, contrary to the suggestion made by Mr Laister that the two are almost indistinguishable, this is a further indication that the proposal is materially different from the existing use of the site – not only in terms of on-site and off-site effects but also in terms of how it is treated by legislation.