

Appeal Report to Planning Committee – 19th May 2021

Re: Ruda Holiday Park, Croyde

This report relates to Judicial Review proceedings, which were conducted at the Administrative Court on 4th and 5th March 2021. The claim was made on behalf of the Croyde Area Residents' Association (CARA) in relation to a planning permission issued in 2014 by North Devon Council to Ruda Holiday Park, Croyde. Accordingly, the Council was the defendant to the proceedings, and the owners of the Holiday Park (Parkdean) were the Interested Party.

The approved judgment and order of Mrs Justice Lieven are attached.

Background

Ruda Holiday Park, Croyde is of course a well-known, popular and very substantial holiday destination, providing camping and caravanning facilities, both by way of static and touring facilities. A considerable number of planning permissions have been granted over the years.

Because the holiday park had been subject to a number of different opening times for the lodges, caravans and camping, as well as built facilities such as the swimming pool and the clubhouse, an application was made in 2013 for the “extension of the time limits during which the holiday park may be open.”

This application was granted on 27th January 2014 (application 56528), and required the development to be carried out in accordance with the plan (ref 6800-LP). This plan shows a red line around various areas of land, including what is known as the “Service Field” which up to this point had not been covered by any planning permission associated with the Holiday Park.

At this stage the Park owners apparently believed that they had simply extended the opening hours of the Park by way of the 2014 permission, as they then made an application in 2016 (application 61826) for planning permission to develop the “Service Field” by placing 50 caravans upon it. Such was the opposition to the planned development, that the application was subsequently withdrawn.

In January 2018, however, an application was made for a Certificate of Proposed Use relating to the Service Field, on the basis that the 2014 permission, in including the Service Field within the red line as the area to which the permission applied, allowed the use of the land as a caravan site.

This application was refused by the Council, on 31st May 2018, for the reason that this was not the intent of the 2014 planning permission, but the Applicant's appeal was granted by a Planning Inspector on 21st February 2020. The effect of this decision was that the Holiday Park was entitled to use the Service Field for the stationing of caravans.

The Proceedings

Application for Judicial Review of the planning permission issued in January 2014 was lodged by the Claimant (CARA) in July 2020. There were four grounds of challenge, namely:

- (1) The Council erroneously granted permission for a different purpose and in respect of a different area of land than it intended
- (2) The grant of permission did not comply with the Environmental Impact Assessment Regulations 2011
- (3) The development permitted by the planning consent was contrary to a number of development plan policies
- (4) The application contained a certification that the Interested Party was the sole owner of the land which was the subject of the application, when this was not the case.

Neither the Council nor the Interested Party disputed that the 2014 permission was granted in error; the issue in the case was what was to happen next.

The Interested Party, but not the Council, argued that there was a statutory bar to the quashing of the permission, pursuant to section 284 (1) of the TCPA 1990 i.e that the validity of a decision could not be questioned in any legal proceedings whatsoever.

The Interested Party also argued that the claim should not succeed because it was brought way outside the 6 week time period for judicial review of decisions under the TCPA 1990, and would additionally cause harm to good administration if successful.

The decision of Mrs Justice Lieven

Mrs Justice Lieven rejected the Interested Party's arguments and concluded, in paragraph 87 of her judgment, as follows:

"I consider this to be an exceptional and indeed unique case in which it is appropriate to extend time and to quash the 2014 permission."

At Paragraph 85, Mrs Justice Lieven stated:

"The overriding factor in my view is the harm that would flow from upholding the planning permission. The site is in the AONB in a highly prominent location. The visual material shows the impact if only the Service Field was developed, but the even greater harm if the whole of the red line application site was developed."

Postscript

To bring members entirely up to date, the proceedings may not have yet been concluded, as the Interested Party has lodged an application with the Court of Appeal for leave to appeal against the decision of Mrs Justice Lieven, the Judge having herself refused leave to appeal.

The outcome of this application will not have been determined by 19th May 2021.

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