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Date: 6 November 2018

**Planning Department
South Holland District Council
Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE**

Dear Sir/Madam

PLANNING STATEMENT

Lazy Acre, Caravan Site, Little Dog Drove, Holbeach St John

I am instructed by Mr E M McGowan to submit the attached application for a Certificate of Lawful Existing Use or Development under the provisions of Section 191 of the Town & Country Planning Act 1990. The application relates to the use of the land as a caravan site and associated tented camping, for an indicative number of up to ten units.

There is a considerable planning history with regard to the land to which I shall make reference below. The background to the application lies, however, in the permitted development rights relating to the use of land as a caravan site that are set in Part 5 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015. Class A relates to use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2. This states:

"The circumstances mentioned in Class A are those specified in paragraphs 2-10 of Schedule 1 to the 1960 Act (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters".

It is conditional at paragraph A1 that the use be discontinued when the circumstances specified in paragraph A2 cease to exist. All caravans should then be removed from the site as soon as practically possible.

The "1960 Act" is the Caravan Sites & Control of Development Act 1960. Its First Schedule at paragraph 5 relates to "sites approved by exempted organisations." Sub-paragraph (1) states:

"Subject to the provisions of paragraph 13 of this Schedule, a site licence shall not be required for the use as a caravan site of land as respects which there is in force a certificate issued

under this paragraph by an exempted organisation if not more than five caravans are at the time stationed for the purposes of human habitation on the land to which the certificate relates”.

Paragraph 6 then goes on to indicate:

“Subject to the provisions of paragraph 13 of this Schedule, a site licence shall not be required for the use of land as a caravan site if the use is under the supervision of an exempted organisation and is in pursuance of arrangements made for that organisation for meeting for its members lasting not more than five days”.

Paragraph 13, referred to above, sets out the power to withdraw certain exemptions.

The “exempted organisation” as relevant to this application was the Camping & Caravanning Club.

This application for a Certificate under Section 191 of the 1990 Act seeks to provide evidence that, notwithstanding the requirement that a caravan site benefitting from the above permitted development rights is pursuant to an exemption certificate held by a prescribed organisation, in this case the Camping & Caravanning Club, the use of the application site at Little Dog Drove, which was certainly commenced as long ago as 2003, has continued without compliance with the requirement that the use of the land be members of the exempted organisation.

The E-Mail addressed to David Gedney of the South Holland District Council by Jacqui Berridge from Lincolnshire County Council, dated 6 August 2014, usefully included the development management considerations that must be borne in mind. It stated:

“As previously, the test which the application must meet is that the use has been on-going for a continuous period of ten years, although it is not necessary for the use to be on-going at the time of the application provided the use has not been lost by operation of law. The evidence submitted must be considered on the balance of probability, and the burden of proof is with the applicant. The Council should identify when the change of use began, and then determine whether a period of ten years has since elapsed, with the unlawful use continuing to be an active use throughout the ten year period”.

The applicant accepts the validity of that advice. Indeed, although the Council’s refusal to issue a Certificate of Lawful Existing Use or Development under application code: H09-0929-13 on 10 February 2014 was not appealed, the reasons for the decision were noted. Before then, an Enforcement Notice that had required a previous owner to stop using the land as a residential caravan site and to remove an unauthorised residential caravan from the land had been withdrawn. It is significant that the Notice, dated 20 July 2010, referred to the authorised use as “the use as a certificated recreational caravan site.” That situation forms part of a chronology of events documented back to the year 2003 to which I shall now make reference below.

It appears not to have been challenged that the use of Lazy Acre as a caravan/camping site dates back to at least January 2003. An application for a Certificate of Lawful Existing Use or Development was submitted on 31 January 2013 under your code: H09-0929-13 when significant corroborating evidence to this effect was provided by persons who claimed to have used the facility at Lazy Acre from various dates within the year 2003. Particular amongst these documents was a Statutory Declaration, provided by Mr Barry Colin Freeman who was a neighbour until 27 November 2012 and who was, accordingly, in a position to testify as to the longevity of the use. A copy of Mr Freeman's Statutory Declaration is enclosed with my list of documents.

It is central to the provision of a Statutory Declaration that their contents are not to be regarded lightly. In the case of *FW Gabbiths – v – SSE and Newham LBC* (1985) JBL630, case law was established to the effect that evidence provided by the applicant need not be corroborated by any independent evidence. This is particularly relevant in this case, because I have a copy, attached in the Appendices of a letter addressed to the Council in respect of the above application by Ward Gethin Archer, Solicitors, acting on behalf of Mr and Mrs Smeeth. This letter included the following sentences:

"Whereas the Applicants say that it has been in use for over ten years, the reality is that there have been complaints about the use of the site throughout this period.

Our client has been in contact with the Camping and Caravan Club on various occasions and in 2005 for example the Camping and Caravan Club made it clear that the caravans who were there had in effect moved on. There was an earlier enforcement appeal in relation to an application by Mr and Mrs Spooner in 2010 on a very similar basis".

I draw particular attention to this letter because it verifies, although perversely it was written in support of an objection, that on the date the letter was written (8 May 2014) there had been complaints about the use of the site throughout the period of the previous 10 years.

Subsequently, in respect of a letter addressed to the Council by Mr and Mrs Franks of "Greenbanks" Little Dog Drove, it was indicated:

"I am not challenging whether the activity began on, before or after 31/01/2003. However, I do claim that there have been interruptions in the use of the site as a camping and caravan site."

I shall return to the claimed "interruption" in the use below.

The attached Statutory Declaration of the Site Owner, Mr Ezra Michael McGowan, provides useful additional guidance as to a relevant sequence of events in relation to the continuing use of the land. At Appendix D he attaches a copy of an Acceptance of Building Notice under the Building Act 1984 and Building Regulations 2000, issued by the Council on 5 July 2004, relating to the installation of a septic tank at the site. Separately, Mr McGovern has provided a copy of

a letter from Anglian Water, confirming that it installed a water meter at the premises on 29 May 2003. A copy of this letter forms my attached Document 6. In his Appendix E, he provides details of documents provided by his Solicitor, including a periodic report for electrical installations relating to the site, prepared by Mr Phillip Rudd on 18 January 2011. In his report, Mr Rudd reveals that the estimated age of electrical installations at the site was 7 years and that his last previous inspection had been on 15 December 2006. Mr McGowan himself confirms that he had been familiar with Lazy Acre Caravan Site from 2003 and that he had been a regular customer until he acquired the property, much later, in 2012.

Throughout the period from 2003 to his acquisition of the property, the site had been the subject of a Certificate issued by the Camping and Caravanning Club which, at the time of his purchase, remained valid until 28 February 2013. This was subsequently extended to 29 February 2016.

Mr McGowan's Statutory Declaration also sets out details of various planning permissions issued by the Council. The Council does not appear, at any stage during the consideration of these applications, to have raised issue with the stated use of Lazy Acre as a touring caravan site. Indeed, it is inconceivable that it would have held such concerns when, on 10 June 2010, it granted full planning permission for the erection of a proposed utility/amenity building to service the development. Mr McGowan attaches a copy of this planning permission as Appendix A to his Declaration.

Statutory Declarations are also attached from Mr Nathan John Farrar and Mr Joseph George Deadman on 20 September 2018 and by Mrs Donna Spooner on 5 October 2018. In the cases of Messrs Deadman and Farrar, their Statutory Declarations add to those previously provided by them. Mrs Spooner's Statutory Declaration confirms that she acquired Lazy Acre Caravan Site from Mr Tony Farrow in 2009 and that she sold the property to the applicant on 26 June 2012. These Statutory Declarations each confirm that, at no stage, were visitors ever asked to confirm whether, or not, they were members of the Camping and Caravanning Club whilst, in the cases of Mrs Spooner and the applicant, they never asked visitors to confirm their membership nor did they require visitors to be members.

I turn now to the issue of continuous usage. As with any recreational development of this nature, the regularity and intensity of usage will inevitably vary subject to the time of year and, having regard to the vagaries of the climate, anticipated weather conditions. The use does not fail to be continuous merely because it experiences periods of low or no demand. It is clear that this site has been provided, for considerably more than ten years with, for example, electric hook-up facilities and other amenities. The use would fail to be continuous if there was distinct evidence of abandonment. No such evidence exists in this case. Equally, it is clear that, notwithstanding the withdrawal of their exemption certificate by the Camping and Caravanning Club, the use has continued. I reiterate that users were never required to be members and there has never been any evidence to the effect that they did that has been provided to the Council.

Mr McGowan has, as a matter of operational policy, not taken bookings for the last two summers pending resolution of outstanding planning matters. He intends, however, to complete the amenity building which merely requires final fitting out. There has been no abandonment of the use on his part.

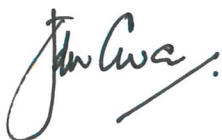
For all the above reasons, it is submitted that the use to which this application relates has existed for a period of considerably more than 10 years prior to the date of the application and that it has continued throughout that period.

I therefore attach a list of documents in elaboration of the information set out above:

1. A copy of an extract from an E-Mail, dated 6 August 2014, addressed to David Gedney of the South Holland District Council by Jacqui Berridge of Legal Services Lincolnshire.
2. A copy of a Statutory Declaration by Mr Barry Colin Freeman dated 29 July 2013.
3. Highlighted copy of a letter from Ward Gethin Archer, Solicitors addressed to the Council on 8 May 2014.
4. Highlighted extract from a letter from Mr & Mrs Franks dated 15 June 2014.
5. Statutory Declaration of Ezra Michael McGowan dated 17 September 2018.
6. Copy of a letter addressed to Mr McGowan by Anglian Water dated 10 March 2014.
7. Statutory Declaration of Mr Nathan John Farrar dated 17 April 2014 and 20 September 2018.
8. Statutory Declaration of Mr Joseph George Deadman dated 17 April 2014 and 20 September 2018.
9. Statutory Declaration of Mrs Donna Spooner dated 5 October 2018.

Should you require any clarification of the issues raised in the application and, in particular, this Planning Statement I shall be grateful, if you will let me know as soon as possible after the validation and registration of the application which is being submitted through the Planning Portal by means of which the required application fee will be collected.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Church', with a stylized flourish at the end.

John Church
Enc