



Appeal Decision

Site visit made on 7 August 2017

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 August 2017

Appeal Ref: APP/Y3425/X/16/3159645

Ivy Cottage Mobile Home Park, Within Lane, Hopton, Staffordshire, ST18 0AP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr William Thompson against the decision of Stafford Borough Council.
 - The application (Ref: 15/23238/LDC), dated 2 November 2015, was refused in part by the Council by notice dated 26 July 2016.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of land ancillary to use of Ivy Cottage Mobile Home Park, as a residential caravan site, for the storage of residents' caravans.
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Decision

1. The appeal is dismissed.

Main Issue

2. On 26 July 2016, the Council issued a LDC (Ref: 15/23238/LDC) in respect of the appeal site in the following terms: "*Use of land for the storage of up to a combined maximum number of ten touring caravans and motorhomes*". This variation of the description from that on the application, in effect, refused to certify that the use was incidental to the use of the adjoining mobile home park and that remains the main issue in dispute between the parties in this case.
3. I shall go on to consider whether the Council's decision was well-founded. The onus of proof in an application for a LDC rests with the appellant, the relevant test of the evidence being the balance of probability. The planning merits of the use are not matters that I am able to consider in this type of case.

Reasons

4. The appeal site is a generally rectangular area of land immediately adjacent to the SW boundary of the Ivy Cottage Mobile Home Park. It abuts a further, more extensive, area of rural land, which is also in the appellant's ownership. The appeal site has a hard surface of gravel and chippings and its only means of vehicular access is via the mobile home park's road network.
5. There is now no doubt that up to 10 caravans and/or motorhomes have been stored on the land for the requisite period of over 10 years; the Council's issue

of a LDC to that effect confirms that is the case. However the Council, whilst recognising that the appeal site is in the same unit of occupation as the adjoining residential caravan site, considers it to be both physically and functionally separate, and therefore to be operating as a separate planning unit. This reflects the judgement in the case of *Burdle v SSE [1972] 3 AER 240, 244*, in which Bridge J suggested 3 broad tests for determining the appropriate planning unit. I agree with the Council that the appeal site falls into the 3rd category: "*.. it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit.*"

6. The appeal site was the subject of an appeal decision dated 1 November 2010 (Ref: APP/Y3425/X/09/2115020) concerning the Council's refusal to issue a LDC for the ancillary use of the land for the storage and dismantling of caravans, storage of gas bottles and storage of residents' caravans. The Inspector noted that the land appeared to have a character materially different from that recorded in planning documents written and photographs taken before 2005. He noted that the changes effected in 2005 may have resulted in alterations to the area of both planning units (ie the caravan site and the adjoining open land) but that he did not need to reach a firm conclusion on such a matter.
7. To my mind, the changes effected in 2005 were consistent with the Council's description of the use in issuing the LDC which is the subject of this appeal. It appears to me that the appeal site is physically separate and is quite distinctive in character from the area of the park home site itself. It is not in dispute that residents of the park have been able to access the land. However, for most of the relevant 10 year period, it has been enclosed by substantial fencing and, according to the Council's evidence, the land has been gated. Whilst there is clear evidence that residents have been permitted to store their touring caravans/motorhomes on the site, there is no evidence that such storage has been limited to residents; indeed the number of residents' caravans referred to in the representations is commonly below the total number of caravans said to have been stored on the site at any one time.
8. The appellant's reference to the lawful ancillary storage of a caravan in the curtilage of a dwellinghouse is not relevant to the appeal site in my view. If there is insufficient room on an individual park home plot for such ancillary storage, the resident is in the same position as any other householders who have insufficient space in their own domestic curtilage to store a caravan and must seek storage elsewhere. In this case, the appeal site is merely a convenient option for storage but remains in a distinctly separate use for caravan/motorhome storage purposes.
9. In conclusion, on the evidence provided to me, the appellant has failed to show that, on the balance of probability, the use of the appeal site is incidental to that of the adjoining mobile home park. Therefore, I consider that the Council's decision to refuse to refer to the use as incidental in its decision to issue a lawful development certificate was well-founded and that the appeal should fail.

B.S. Rogers Inspector