



Appeal Decision

Site visit made on 9 January 2018

by P N Jarratt BA DipTP MRTPI

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

Decision date: 12 January 2018

Appeal Ref: APP/R3325/X/17/3180512

Greenacres Park, Coppits Hill, Yeovil, BA21 3PP.

- 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 to grant a certificate of lawful use or development (LDC).
 - The appeal is made by J and E Fury against the decision of South Somerset District Council.
 - The application Ref 17/01522/COL, dated 29 March 2017, was refused by notice dated 22 May 2017.
 - The application was made under section 192(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 the proposed siting of two additional caravans.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. A number of representations have been made by local residents opposed to the proposed development, with some of these referring to the suitability of the use. However the planning merits of the use are not relevant and they are not therefore an issue for me to consider, in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

The Site and Relevant Planning History

3. Greenacres Park is a residential mobile home park in Coppits Hill with a number of mobile homes sited in an 'L' shape around a well maintained central green area. To the rear of the eastern leg of mobile homes is an area of covered parking/open-sided garaging and an area of allotment gardens, both of which are accessed adjacent to terraced cottages. This parking and allotment area is the appeal site although it forms part of the wider ownership of Greenacres Park.
4. There have been a number of applications and permissions for the siting of caravans since 1954, originally for 11 caravans for a temporary period (24361), and then for 14 caravans with a condition limiting the number to 14 (24361/A). In 1979 an appeal was allowed for the continued use of land as a caravan site without a temporary permission condition (781544 and

SW/APP/5367/A/79/04164). In 1986 an additional mobile home was permitted (860727).

5. An application for an LDC for the existing use of the land as a caravan site for the siting of 15 caravans in contravention of condition 2 of permission 781544 was permitted on 6 November 2015 (15/03688/COL). The plans referred to in 781544 showed two strips of land forming an 'L' shape for the siting of 14 caravans although the LDC referred to a slightly different configuration which was held to be immune from enforcement action through the passage of time.
6. An application for an LDC for the proposed siting of an additional 2 caravans was allowed on appeal on 23 January 2017 (16/00006/COL and APP/R3325/X/16/3155212). The Inspector's reason for issuing the LDC was that "The siting of 2 additional caravans, bringing the total number of caravans on the site to 17, would not amount to a material change in the use of the land, and hence would not be development requiring planning permission." The plan attached to the notice showed an 'L' shaped siting of mobile homes which excluded the parking and allotment area, and the central green area.

The appellants' case

7. The appellants' state that the appeal site has been used lawfully as part of the caravan site and has been used as such for more than 10 years. They refer to the site history to support the view that the appeal site has always been within the ownership and control of the caravan site and formed part of the original proposals in 1978. The Google Earth images submitted by the appellants show that in 2001, 2006 and 2009, the appeal site was used as allotments and that there was a garage building on the site.
8. Reference is made to the definition of a caravan site at s1(4) in the Caravan Sites and Control of Development Act 1960 which "means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed". The appellants' consider that this includes the garaging area and the land used as allotments as an extension to the gardens which exist around each caravan.
9. The appellants appear to disagree with the fact that the Council granted the 2015 LDC (15/03688/COL) subject to a revised red line for a reduced site area but I note no appeal was made in respect of that decision.

The Council's case

10. The Council's reasons for refusal are threefold. Firstly the appeal site could not be lawful for the siting of 2 caravans as the site is clearly defined in permission 781544, the 2017 appeal decision (APP/R3325/X/16/3155212) and on the plan attached to the site license.
11. Secondly the current use of the appeal site is a mixed use of agricultural and sui generis uses. These are allotment plots, defined as agriculture under s336¹, and a garage/car port use which are not exclusively for caravan site occupants. Any change of use would constitute a material change of use.

¹ Crowborough PC v SSE and Wealden DC 1980 reported in JPL and reproduced at Appendix H of the Council's statement

12. Thirdly, the siting of caravans would require operational development which would not be permitted development under the Town and Country Planning (General Permitted Development) Order 2015, as amended (the GPDO).

Reasons

13. Much of the appellants' case appears to be predicated on the fact that because the appeal site is in the same ownership and managed as part of the caravan site, then it follows that all the activities within this ownership fall within a single land use as a caravan site. Similarly, it is argued that it forms part of a single planning unit and that two additional caravans would not represent a material change of use. However, this presupposes that the lawful use of the planning unit is solely as a caravan site and that garage/parking and allotments are ancillary uses.
14. Having regard to the functional and physical separation between the caravan site and the area used as open garage/parking and allotment use, as a matter of fact and degree, I share the view of the Council that the appeal site is a separate planning unit to that of the caravan site. These uses are clearly distinguishable on the ground and from the various plans associated with the permissions and certificates. They do not represent ancillary uses to a primary use of a caravan site. The site license plan does not support the appellants' case although I acknowledge that his appeal applies to the town and country planning context and not to any matters controlled by other legislation.
15. The introduction of two additional caravans outside the clearly defined caravan site area shown on the plan accompanying the 2017 appeal decision (APP/R3325/X/16/3155212) would represent a change to the existing mixed use from garage/parking and allotment use to a caravan site and this would represent a material change of use irrespective of any arguments made in terms of intensification of use. This latter point distinguishes the issues in this appeal to those considered in the 2017 appeal decision.
16. Notwithstanding my view on the planning unit, the appellants have not submitted any evidence by way of sworn statements or by other means that ties in the use of the appeal site by residents of the caravan site as extended gardens.
17. I have had regard to the representations of a local resident that a car has been garaged on the appeal site by a person unconnected with the caravan site. In the absence of further details about the users of the parking facility, this suggests that there is less of a connection between the caravan site and the use of the parking area.
18. The Council's refusal on the ground that operational development (which is unspecified) would be necessary and that this would not be permitted development under the GPDO is unclear. If this, for example, relates to the provision of hardstandings, the appellants correctly point out that the GPDO provides for works required by a site license, such as the provision of a suitable hardstanding. In this respect I have had regard to an appeal decision referred to by the appellant.²
19. The onus of proof is on the appellant in LDC cases and the level of proof is on the balance of probability. This has not been achieved in this appeal.

² APP/P0119/X/15/3136414

Conclusion

20. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed siting of two additional caravans was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Peter Jarratt

Inspector