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## Appeal Decisions

Inquiry Held on 26 - 29 November 2019 and 23-24 January 2020

Site visit made on 24 January 2020

**by Simon Hand MA**

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

**Decision date: 20 February 2020**

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### **Appeal A: APP/W0340/C/18/3209701**

#### **Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr John Searle against an enforcement notice issued by West Berkshire Council.
  - The enforcement notice was issued on 5 March 2018.
  - The breach of planning control as alleged in the notice is without planning permission, there has been a material change of use of the Land from a Golf Course (with ancillary buildings) to a use comprising; (a). Golf Course with partially built club house and staff flat ancillary to golf course; (b). The residential occupation of a timber building known as 'The Greenkeepers Lodge' marked 'C' on the plan.
  - The requirements of the notice are 1. Cease to use the building marked 'C' on the plan for residential purposes. 2. Remove from the land all items and domestic paraphernalia associated with and used in connection with the residential use of the building.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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### **Appeal B: APP/W0340/C/18/3199829**

#### **Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Searle against an enforcement notice issued by West Berkshire Council.
- The enforcement notice was issued on 5 March 2018.
- The breach of planning control as alleged in the notice is without planning permission, there has been a material change of use of the Land from a Golf Course (with ancillary buildings) to a use comprising; (a). Golf Course with partially built club house and staff flat ancillary to golf course; (b). The siting and occupation of a mobile home marked 'B' on the plan to create a separate and independent residential unit used for independent domestic uses; (c). The use of the Land for the storage of materials, building plant, equipment and materials including metal shipping containers for storage of materials.
- The requirements of the notice are 1. Cease to use the Land for residential purposes; and 2. Cease using the Land for the stationing and use of the mobile home marked B on the Plan used for residential purposes; and 3. Cease to use the Land for the storage of metal shipping containers, the storage of all items of building plant, equipment and materials. 3. Remove from the Land the mobile home marked B on the Plan, together with all associated structures, fixtures, fittings, and associated domestic paraphernalia used in association with the residential use of the Land either affixed to or connected to the mobile home; and 4. Remove from the Land all associated domestic paraphernalia

used in association with the residential use of the Land. 5. Remove from the Land all items of building plant, equipment and materials. 6. Remove from the land all the metal shipping containers including all their contents.

- The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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### **Appeal C: APP/W0340/X/18/3199841**

#### **Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH**

- 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 Mr John Searle against the decision of West Berkshire Council.
  - The application Ref 17/01687/CERTE, dated 8 June 2017, was refused by notice dated 27 October 2017.
  - 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 the stationing of a caravan for residential purposes.
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### **Appeal D: APP/W0340/X/18/3199845**

#### **Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH**

- 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 Mr John Searle against the decision of West Berkshire Council.
  - The application Ref 17/01609/CERTE, dated 8 June 2017, was refused by notice dated 27 October 2017.
  - 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 the storage of building materials and machinery, together with the stationing of shipping containers for the storage of materials.
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## **Decisions**

### **Appeal A - 3209701**

1. It is directed that the enforcement notice be corrected: by the deletion of the allegation and its replacement with "*without planning permission the material change of use of the green keeper's lodge (shown cross hatched and labelled A on the plan) to use as single dwellinghouse*"; the deletion of the requirements and their replacement by "*1. Cease to use the building cross hatched and labelled A on the plan for residential purposes. 2. Remove from the building all items and domestic paraphernalia associated with and used in connection with the residential use of the building*"; and the substitution of the plan annexed to this decision as "*plan for Appeal A*" for the plan attached to the enforcement

notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed.

### **Appeal B - 3199829**

2. It is directed that the enforcement notice be corrected by deleting the allegation and replacing it with "*without planning permission the material change of use of the land to a mixed use for (a) golf Course with partially built club house and staff flat ancillary to golf course and; (b) the use of the Land hatched on the plan and labelled 'A' for the storage of metal shipping containers used for the storage of materials*"; and by deleting the requirements and replacing them with "*cease to use the Land hatched on the plan for the storage of metal shipping containers and remove those metal shipping containers from the land, in either case except where they are used for lawful ancillary storage purposes associated with the golf course*"; and the substitution of the plan annexed to this decision as "*plan for Appeal B*". Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

### **Appeal C - 3199841**

3. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

### **Appeal D - 3199845**

4. The appeal is allowed subject to the deletion of the words "*together with the stationing of shipping containers for the storage of materials*" and attached to this decision is a certificate of lawful use or development describing the extent of the existing use which is considered to be lawful.

### **Costs Applications**

5. Applications were made by both parties for a partial award of costs. These are dealt with as separate decision letters.

### **Background to the Appeals**

6. Wessex Downs Golf Club lies in open countryside in the North Wessex Downs AONB. As a golf course it is a modest enterprise that operates as a pay and play course and for a long time on an honesty box principle. The site was bought in 1989 by George Rawlings at which time it was countryside, but with an assault course on land to the northeast, away from the road. The assault course seems to have been used for private military training and was disused when the Rawlings moved onto the land. Whether it actually occupied part of the current appeal site or was in woods beyond is not entirely clear, but that is not important for this appeal.
7. Mr Rawlings began to establish a golf course on the land and in 1991 planning permission was granted for the material change of use to a golf course and the construction of a club house, car park and access road. In 1995 a revised club house with an ancillary staff flat was granted permission. In 1998 permission for a different position for the club house was refused, but in 2002 the 1998 club house and staff flat permission was renewed. There seems to be no doubt that around that time in 2002 works began to construct the club house and

footings and the first few layers of blockwork were built. These are still in place today and it would seem act to keep the 2002 planning permission alive. The club house is positioned at the back of the site in the northeast corner.

8. Despite the lack of a club house the golf course was up and running in the 2000s and operated by the Rawlings family from the green keeper's lodge, the subject of appeal A (enforcement). This is a timber building which stands roughly a third of the way into the site along the access track. At some point a mobile home was brought onto the land and positioned next to the green keeper's lodge. This the subject of Appeals B (enforcement) and C (LDC). The Rawlings also brought onto the land a considerable amount of building material. This is the alleged storage use the subject of Appeals B and D (LDC).
9. Mr Searle bought the site in early 2016 and moved into the green keeper's lodge in 2017. He also began to store general building materials on the site which led to the LDC applications and following their refusal the issue of the enforcement notices.

### **The Notices**

10. Notice A essentially alleges a material change of use to a mixed use of golf course, partially built club house and the residential use of the green keeper's lodge. Notice B alleges a mixed use of golf course, partially built club house, occupation of a mobile home for residential purposes and storage of building materials. Both notices cover the same site, that is the entire golf course. The appellant argued, and I agree, that two notices cannot cover the same area but allege different uses unless they are issued as alternatives to each other. That is not the case here. There is no suggestion from either party that either of the residential uses in the green keeper's lodge or the mobile home are ancillary to the golf course. These are separate, independent uses. Clearly they have resulted in the creation of separate planning units within the larger golf course as they occupy a clearly defined area within the golf course for uses which are not associated with the golf course.
11. The storage use is more complex. The appellant's LDC application is for a defined and relatively small area of storage between the access track and the eastern boundary of the site between the green keeper's lodge and the site of the club house. This too, the appellant argues, is a separate planning unit. I will discuss this later when considering the ground (d) and LDC appeals.
12. At the close of the Inquiry it was agreed I could amend both notices, so that Appeal B dealt with the mixed use of golf course and storage restricted to a shaded area (labelled A) running along the entire eastern boundary; and the mobile home identified as a separate site labelled B, sitting within A. Appeal A would deal solely with the material change of use of the green keeper's lodge to a dwelling identified with a red line drawn around the lodge. These changes would not prejudice any of the parties. Having considered the evidence below, I shall determine the best way to amend the notices.

### **The Storage use – Ground (d) and the LDC**

13. George Rawlings stated he had stored materials on the site since he first bought it in 1989 and David Bressington, who is a building contractor, said he began to use the site for storage from 1998 until Mr Searle bought the land in

2016. Mr Bressington did a lot of telecoms work as a contractor in the late 1990s all over the south and used various fields and laybys for storage, including the appeal site as he and George Rawlings were old friends. Storage originally included ducting for the telecoms works and various lorries, as well as general building materials in later years.
14. An aerial photograph from 1999 shows there is clearly quite a lot of 'stuff' lying all along the eastern boundary, but it is impossible to say what. The first Council photographs date from 2002 and these appear to show a general building yard, with piles of bricks, concrete blocks, piping, and general materials, as well as a forklift truck, bulldozer, two large excavators, several flatbed trucks, one of them clearly Mr Bressington's with large pipes on the back and several metal containers. The reason the Council didn't immediately issue an enforcement notice is because they thought these materials were to be used for the construction of the club house. Mr Bressington explained that his telecoms work was winding down and in 2002 he put in the concrete footings for the club house that we see today. He also explained that none of the other materials on the site were for the club house. This was backed up by Lee Rawlings, whereas George was less certain, he thought some bricks and blocks may have been brought there originally for the club house use, but as they weren't used straightaway he sold them.
15. The Rawlings business was mainly based at Weirside, where they also lived from time to time. They used the golf course as an overflow site. George Rawlings would buy and sell anything, including the heavy plant as well as any of the building materials. Mr Bressington kept residual materials, such as ducting etc for his telecoms repair works after 2002 and carried out quite a lot of remodelling work at the site over the years.
16. The photographic record continues for 2003 and 2004. In 2003 the footings for the club house are complete but the 'builders yard' is even more chaotic with piles of materials, including bricks, blocks, piping, the pieces of a dismantled pre-fabricated building, railway sleepers, several large metal containers or water tanks possibly, several lorries, a bulldozer and excavator and what appears to be the front of an HGV. In 2004 a huge amount of rubble has been spread over the ground and there are no photographs of the general builders' materials except for a distance shot of what looks like several pallets of bricks piled up. An aerial photograph from 2005 shows lots of materials stored by the club house footings and piles of gravel. Photographs from 2008 show rather more ordered lines of palletted bricks of different colours and concrete blocks and large piles of blue and green ducting.
17. Photographs from 2009 show more lorries and heavy plant, a large dumper truck, horse box, and what would seem to be a considerable increase in palletted bricks and blocks as well as plenty of ducting and a large metal wheel of plastic pipe, as well as a shipping container. The storage area has also moved from close to the club house, to further away closer to the eastern boundary. There seems to be a lot of earth moving works going on, apparently to do with remodelling several of the holes closest to the access track. In 2010 there is a lot less going on, the piles of bricks and blocks are somewhat overgrown with weeds, the whole area of the storage and the green keeper's lodge has greened up, but there are two large green painted shipping containers. This is confirmed by the 2010 aerial photograph where everything

- has greened over and clearly there is less activity than in 2009. The 2013 aerial photograph shows the same as in 2010 except the long grass has gone and the storage is easier to see. In 2014 there are just photographs showing some touring caravans and a metal-recycling van on a small part of the land, the rest of the site is not photographed. In 2016 there are what looks like freshly plastic wrapped stacks of bricks of varying colours, piles of concrete lintels, a big pile of green ducting, the metal wheel of plastic pipe, the two green shipping containers and least one other container. In 2017 it is fairly similar except there are now piles of fencing and square metal ducting as well. By 2018 the current storage use was clearly in evidence, with the palletted bricks and bocks joined by an assortment of more obviously random materials such as decorative columns, steel road plates, timber and balustrade fencing.
18. It seems to me the photographic evidence supports the Rawlings' claim that the storage use waxed and waned over the years. Some times there seems to be a lot on site, other times much less. While pallets of bricks are a common denominator that is not surprising for a buyer and seller of building materials. I cannot believe the same piles of plastic wrapped bricks were there from 2002 to 2016. In many of the photographs many of the brick pallets look freshly delivered. Two other witnesses, Danny Shay and Darren Pennington also gave evidence that they witnessed storage of materials on the land. Mr Shay was a potential buyer of the whole site and visited in 2009, but more convincingly, Mr Pennington is a builder who bought materials from the Rawlings at the golf course from 2008 until the site was sold to Mr Searle.
  19. The alternative view presented by the Council is supported by two pieces of evidence. Firstly, letters from a Mr Hedges, dated January 2015. He was the planning agent for the 2002 planning permission for the club house. He says that the materials condition was discharged back in 2002 and his client acquired enough bricks to complete the project, which are still on site. This is repeated in a follow up letter of July 2015 that the bricks and tiles were approved in 2002, purchased and stored on site.
  20. It seems there was no written record of the materials being agreed, but Mr Bressington explained he took an Istock red and Marley grey roofing tile to the Council and received verbal agreement there and then. Mr Hedges letter says they waited for over 6 months to receive a confirmation and after hearing nothing went ahead anyway. Whatever the truth of the matter none of the bricks and tiles were ever used on the club house. Mr Bressington and Lee Rawlings both estimated about 100 pallets of bricks would be needed and 15-20 pallets of roofing tiles. None of the photographs show anywhere near this amount, so it is quite clear that Mr Hedges was not being accurate when he said all the materials had been purchased and stored at the site.
  21. The second piece of evidence is from the Council enforcement officer, Mr Goodall, who attended a site visit in 2009 and took the photographs submitted for that year. Mr Goodall was not an original witness to the inquiry but his proof was put in at the last minute. The proof suggested he had been called to confirm there was a meeting in the green keeper's lodge at that time in 2009 which was not then furnished as a dwelling and the situation didn't seem to have changed in 2010. In fact in examination in chief he offered the additional evidence that the lead enforcement officer, who is no longer with the Council,

asked what the materials were for and was told by Mr Bressington they were for the club house.

22. I was as surprised as the appellant that this very important bit of evidence had not been in his proof. It necessitated the recall of Mr Bressington who gave evidence later in the day on this one point. Mr Bressington did not remember being asked this but explained had he been he knew the materials were not for the club house and so would not have said they were. It was pointed out in the numerous photographs taken by Mr Goodall on that site visit that he is regularly some way away from Mr Bressington who is shown in conversation with officers from the Environment Agency (the visit was actually about alleged waste dumping, not the issues before this Inquiry), it was suggested he was not in a good position to overhear much of what was said. Indeed he did seem to resile somewhat from absolute certainty during cross-examination.
23. The Council suggested the photographs clearly showed the materials were stored for the purpose of building the club house and that Mr Rawlings was unlikely to operate a storage business from the site as it would make his golf course look like a junkyard. In fact the golf course did look like a junkyard whatever use was actually going on, but due to the lie of the land, the storage area is not intrusive and is clearly separate from the golf course itself. The photographs show to me that much of the materials were not clearly for the club house but do seemed to have either been Mr Bressington's or used for buying and selling by Mr Rawlings. I am not convinced the letter from Mr Hedges or the evidence from Mr Goodall is sufficiently convincing to suggest that the appellant's case has not been made out. In my view the appeal concerning the storage of building materials succeeds on ground (d).

#### *Deliberate Concealment*

24. The Council suggest that if the storage of building materials can be demonstrated it is only because on two occasions the Council was deliberately misled. firstly the discussion on the site visit in 2009 and secondly the two letters from Mr Hedges, both discussed above. The letter from Mr Hedges does not attempt to suggest there is no storage of unrelated building materials at the site, only that, at one time, there were materials there intended for the clubhouse. At worst this is misleading, but whether intentionally so is difficult to say. I am not convinced by the late recollection of the meeting 10 years previously made by Mr Goodall. What does stand out is that given the Council's interest in the site, the complete lack of any written notes or investigation as to what was going on from the many visits they made.
25. Even had these two events been clearly misleading, they would still not have amounted to a deliberate and sustained attempt to deceive the Council. It is clear from the decision letters<sup>1</sup> provided to illuminate this issue that a high bar has been set, as the Courts did not want to suggest that every shifty answer would lead to an accusation of deception. In this case two possibly misleading comments do not amount to a campaign of deception and there has been no deliberate concealment.

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<sup>1</sup> For example APP/K0425/C/16/3151487 & APP/V3120/C/13/2204970

### *Shipping Containers*

26. The shipping containers are wrapped up with the storage use in the evidence, but they are really a separate issue as the allegation is metal shipping containers [used] for the storage of materials. There are clearly shipping containers on the land in the early 2000s, but the Council claim there are no shipping containers in the 2005 aerial photograph. I do not think the photograph can be definitive evidence, there are no obvious containers is perhaps a better description. In 2008 a blue container is shown apparently dumped on a pile of earth next to green ducting it has no doors and doesn't seem to be being used. In 2009 two large containers are sited next to each other beside the access track and could well be being used for storage. One is painted blue and white and one is reddish brown. Photographs from 2010 show two bright green containers in much the same place. However, these are not visible in an aerial photograph taken a few months before. Again it is difficult to be certain from aerial photographs, especially with the trees in full leaf, but I would expect large rectangular shapes to stand out and there is no sign of them. In 2013 two containers are shown in the top corner of the site and they are in the same place in 2016 and 2017 and by 2018 had been roofed over to form a shed that I saw on my site visit. However, prior to 2013 containers seem to have come and gone from the site which fits with George Rawlings statement that everything was for sale, he would consider any offers for any items. I do not think it can be shown that shipping containers have been used consistently for a period of 10 years for storage purposes.

### **The mobile home – ground (d) and the LDC**

27. The evidence is that a mobile home was brought onto the site in 1989 or 1990 and used occasionally by staff for security purposes and by the green keeper, Andrew Mayer for occasional overnight stays. Photographs from 2002 show the mobile home in its position beside the green keeper's lodge, with a fenced compound creating a small yard. The same mobile home is shown in the same position in 2009. It is also visible in the aerial photograph in 2005. A different mobile home is in the same place in 2010 and remains there in 2013 and 2017 but a new one is in place in 2018, which I saw on my site visit. I have no doubt there has always been a mobile home in the same place since at least 2002. The question is occupation.
28. It is claimed Andrew Mayer moved in permanently in 2000 and that the 10 year period begins then. The Council point out there is no other evidence for this, but there doesn't have to be as long as the appellant's evidence is consistent and credible. Mr Bressington supports this version of events; he knew Andrew Mayer well and often went into the mobile home for a cup of tea. He had no reason to doubt he was living there.
29. The next change is 2007 when Jimmy Rawlings moved in. Jimmy is brother to Lee and is George's son. The Rawlings have a rather complex residential history as they have lived in mobile homes at their base in Weirside and also in a large house called Kirton Cottages, where Mr Bressington also lived for a time. Jimmy lived at Kirton cottages with his father until 2007 when Andrew Mayer moved out of the mobile home. George Rawlings says that the mobile home was earmarked for Lee, who was currently in a different house and going through a divorce. Until his house was sold someone needed to stay at the golf course and Jimmy went to the mobile home – in November 2007, shortly after

- Andrew Mayer moved out. Lee moved into the mobile home in May 2008 and Jimmy back to Kirton Cottages. Lee decided to convert the green keeper's lodge as it would provide better accommodation and this was completed in August 2010, Lee moved to the green keeper's lodge and Jimmy back to the mobile home.
30. During this period, from 2008 onwards Weirside was cleared to enable redevelopment into a recycling centre. All the mobile homes were removed. This went to appeal and wasn't settled until 2009 and the centre wasn't up and running until 2011, after which the mobile homes were presumably returned. George Rawlings lived at Kirton Cottages until he sold them in 2011 and moved into the green keeper's lodge. This, as he says, 'caused a bit of an issue', as Lee was living there and so occasionally were his children. So Lee moved into the mobile home and Jimmy to the green keeper's lodge to share with his parents. Lee left the mobile home in December 2012 and George Knowles moved in. George is an old friend of the Rawlings and worked at the golf course and for George's general business. He had lived at Kirton Cottages with the Rawlings and is now at Weirside.
31. New characters now become involved, Tommy Thompson, another of George Rawling's friends lived in a touring caravan for a few years next to the mobile home. Luckily for him, the Rawlings and Mr Searle had become friends during the purchase negotiations and when George Rawlings sold the golf course to Mr Searle and moved out of the green keeper's lodge (February 2016) Tommy Thompson moved in. George Knowles was still in the mobile home until May 2016 when he moved out and Rocky Dunne, a cousin of Tommy Thompson, moved in, all with Mr Searle's blessing. Finally Mr Searle's cousin, Danny Matthews moved to the mobile home in October 2018.
32. The Council suggested this game of 'musical chairs' was all very convenient, leaving no gaps in the timeline, which is true, but in my experience, it is not uncommon in these sorts of cases. A number of dates were challenged in cross examination and were revised, but none were significant. Mr Bressington said Jimmy lived at Kirton Cottages with his parents, which the Council took to mean he was never at the golf course until the cottages were sold, but that is not what he said. Jimmy did live at Kirton Cottages but moved to the golf course and back twice. This is also what Lee said in his evidence.
33. In fact the Council have nothing to gainsay the appellant's evidence except for a photograph from 2009. This is the period when Lee was in the mobile home and converting the green keeper's lodge to live in. The photograph shows the mobile home looking rather scruffy. But it doesn't show it not being lived in. The wooden yard fence has been turned into metal railings. There is a postbox on the railings and much was made of the slot being boarded up. However, that could just as easily be a space for a nameplate and not a slot at all. The lid obviously lifts up as it has a knob on it. It is exactly the same postbox as in the 2010 photograph when it is accepted the mobile home is obviously lived in.
34. It also looks like the window visible in the photograph has no curtains but it is really not clear whether there is roller blind or not. It was originally claimed that heras fencing in the compound blocked the door, but in fact it is clear the fencing provides a clear path to the door. Again it was suggested the difference between 2009 and 2010 was striking, as in the latter photograph the mobile home is clearly being lived in. But this could be explained by Lee being

busy on the green keeper's lodge project in 2009, whereas by August 2010 Jimmy was back in the mobile home which could explain why it had been spruced up.

35. I also note that none of this was done in secret. The Council, as noted above, visited the site many times and their photographs clearly show the mobile home is being lived in in 2010. Yet nothing seems to have been done about it and there is no record of this unlawful activity being pursued or even questioned until this inquiry when Mr Goodall suggested it didn't look lived in in 2010, a point I have discussed above. Finally, the mobile home does seem to have changed position slightly in its most recent iteration, and now is placed a metre or so further back, taking it outside of the red line on the enforcement notice and the LDC application. However, this does not affect the evidence for the preceding years.
36. In my view the appellant has demonstrated that on the balance of probability the mobile home has been lived in for 10 years continuously and so is immune from enforcement action.
37. The Council pointed to an enforcement notice issued in 1990. This notice was not appealed and was complied with. It thus continues to have force on the land. The allegation in the notice was, and I paraphrase, the material change of use to agriculture, assault course, access track, parking area *"and the stationing of a caravan which is unconnected with the authorised uses of the land"*. Two requirements are relevant, the first to cease the use of the land for the stationing of a caravan and the second to remove the caravan from the land.
38. As the appellant points out the notice does not allege a residential use for the caravan and there is no suggestion in the allegation or requirements what the use was for. An enforcement notice must be clear on its face and must state fairly what the landowner has done wrong and what he must do to remedy it. The stationing of a caravan is not a use of land and there is nothing in the notice which suggests what the unlawful use actually was.
39. The Council argue that it is clear from the background papers that the use was residential, but this is only revealed by internal correspondence when discussing an associated stop notice, the director of Legal Services suggests such a notice will not work as "it appears to be the case that the caravan is actually used for the purposes of human habitation". This memorandum would not ordinarily be available to members of the public which is presumably why the Courts have held that a notice should be clear on its face. In my view the notice cannot have a continuing effect on a future use of the site for the stationing of a caravan for residential purposes when such a use is not identified in the allegation or the requirements.

#### **The Green Keeper's Lodge – ground (d)**

40. The period for a material change of use to a dwelling is 4 years and the notice was issued on 5 March 2018 so the issue is whether, on the balance of probabilities, the appellant can demonstrate any continuous 4 year period of residential occupancy before that date.

41. The appellant argues the green keeper's lodge was built in 1998 during the period when the Rawlings owned the site. Andrew Mayer used it as a shelter and for running the golf course. Conversion to a dwelling began in November 2009. Lee Rawlings, who was living in the mobile home at the time, carried out the work and says he moved in around July 2010. In June 2011, as noted above George Rawlings moved in, relegating Lee to the mobile home. In February 2016 George sold the golf course to Mr Searle and moved out, Tommy Thompson moved in until October 2017 when Susan Stafford, Mr Searle's partner moved in. The appellant joined her in December 2017. This is the story provided by the Rawlings, Mr Searle and Susan Stafford at the Inquiry and backed up by a witness statement from Tommy Thompson. The Council suggest Mr Thompson's evidence should be given little weight as the facts could not be tested, but their own council tax records put him at the green keeper's lodge from February 2016 to October 2018.
42. More seriously there is doubt over Mr Searle's evidence as in November 2017, when he originally said he was living in the green keeper's lodge, he was also telling an Inspector at another appeal<sup>2</sup> that his only place to live was in a caravan in Normandy in Guilford and if he lost that appeal he would be made homeless. Mr Searle changed his evidence at this inquiry to say he was living in Normandy in November 2017 and didn't move into the green keeper's lodge until December 2017. I did not find Mr Searle a particularly convincing witness. However, even discounting the evidence from October 2017 onwards there is still convincing witness evidence for residential use from July 2010 to October 2017, more than 4 years.
43. The Council point out that the photographs from 2010 do not suggest the green keeper's lodge is lived in, but in my view it tells us nothing at all. The green keeper's lodge doesn't look a lot different today. The evidence from Mr Goodall and Mr Shay concerning 2009 is not really relevant as the appellant doesn't claim to be living there until later in 2010. The Council suggested it was inherently unlikely that George Rawlings moved to the green keeper's lodge in 2011 when he could have lived at Kirton Cottages or Weirside. However, he says he had sold Kirton Cottages then and Weirside was in the process of being turned into a recycling centre. It seems to me that if the Rawlings had set out to invent a story to claim continuous residential use it would have been easier to stick to Lee and Jimmy, who were there anyway either in the green keeper's lodge or the mobile home.
44. There is also some discussion of the roof of the lodge, which was replaced either in 2012 or 2013. I am not sure why this is relevant to who was living in the lodge at the time? There is no suggestion that the lodge was rendered unliveable by the works for a sufficient time to stop the clock so when the roof was replaced is unimportant. When refusing the original application for an LDC for the lodge (which was not appealed), the Council relied on evidence from local residents. However, this was not put before me. The references in the officer's report are summarised, but essentially are no more than that they do not believe the appellant and have not seen anyone living there. I can give these secondhand accounts only little weight and they do not directly contradict the appellant's version of events. The only neighbour who did give evidence to

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<sup>2</sup> APP/W/16/3165526 & 3165528 & 3170046 Hearing 28 November 2017, decision issued 5 March 2018

the inquiry registered his concern that because there were people living on site it could become a housing development.

45. In my view nothing has been suggested that throws any doubt on the plausibility or coherence of the evidence for a continuous residential use of the green keeper's lodge from 2010 to 2017.

## **Conclusions**

46. The appellant has been able to show that the site has been used for the storing of builders' materials, for the stationing of a mobile home for residential purposes and the material change of use of the green keeper's lodge to a residential use for the requisite number of years. He has not been able to demonstrate that the site has been used by shipping containers for storage purposes for the requisite period. The materials have clearly not been stored over the whole site, but have mostly been confined to a limited area as shown on the plan provided with the LDC, the subject of appeal D, however, were I to amend the notice to Appeal B as suggested above it would establish a mixed use for storage and the other uses across a large area of the site.
47. As both notices require substantial amendments the simplest course of action is to amend the notice subject to Appeal A so that it is limited only to the green keeper's lodge with the plan suggested by the Council then quash that notice. I shall then delete from the notice subject to Appeal B all references except those to the shipping containers, substituting a new plan based on that suggested by the Council outlining the area where such containers have been placed and uphold that notice. I shall then allow the appeals for the two LDCs, for the mobile home and the storage of building materials, deleting from the latter LDC any reference to shipping containers. The upshot of this is that the quashing of notice A grants permission for the continued occupancy of the green keeper's lodge. The upholding of the corrected notice B requires the removal of the shipping containers used for storage purposes and the two LDCs confirm that storage of building materials and machinery and the occupation of the mobile home for residential purposes are lawful.
48. There is no need to consider the ground (a) appeal for the green keeper's lodge, or the ground (f) appeal for the mobile home. I shall amend the requirement to remove all shipping containers to exclude those lawfully used for ancillary storage associated with the golf course. The ground (g) related only to the loss of residential uses so does not need to be considered. The ground (b) has been subsumed within the discussion on the notices.

*Simon Hand*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT:**

Michael Rudd – of counsel

He called  
Susan Stafford  
John Searle  
Darren Pennington  
Danny Shay  
David Bressington  
George Rawlings  
Jimmy Rawlings  
Lee Rawlings  
Matthew Green

### **FOR THE LOCAL PLANNING AUTHORITY:**

Emmaline Lambert – of counsel

She called  
Paul Harris  
Nick Ireland  
Lee Goodall  
Masie Masiwa

### **INTERESTED PERSONS:**

Peter Nelson

## DOCUMENTS

- 1 Enforcement Notices and Stop Notices from 1990
- 2 Rebuttal proof from Lee Goodall
- 3 Council's opening submissions
- 4 Witness statement from Susan Stafford
- 5 E-mail from Guildford BC regarding council tax
- 6 Set of signed witness statements for the appellant's witnesses
- 7 Copy of entire 1990 enforcement file
- 8 Bank statements showing council tax payments
- 9 Housing numbers table provided by Nick Ireland
- 10 Witness statement of Aaron Jones
- 11 Appellant's costs application
- 12 Documents exchanged during adjournment
  - (a) Council's costs application
  - (b) Aaron Jones witness statement
  - (c) John Searles passport
  - (d) Decision letters dealing with concealment and isolation
- 13 Suggested revised enforcement notices and plans
- 14 Council's closings
- 15 Appellant's closings
- 16 Court cases referred to by Council in closings



## Plan for Appeal A - 3209701

This is the plan referred to in my decision dated: 20 February 2020

by **Simon Hand MA**

**Land at: Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire  
RG75QH**

**Reference: APP/W0340/C/18/3209701**

Scale: not to scale





## Plan for Appeal B - 3199829

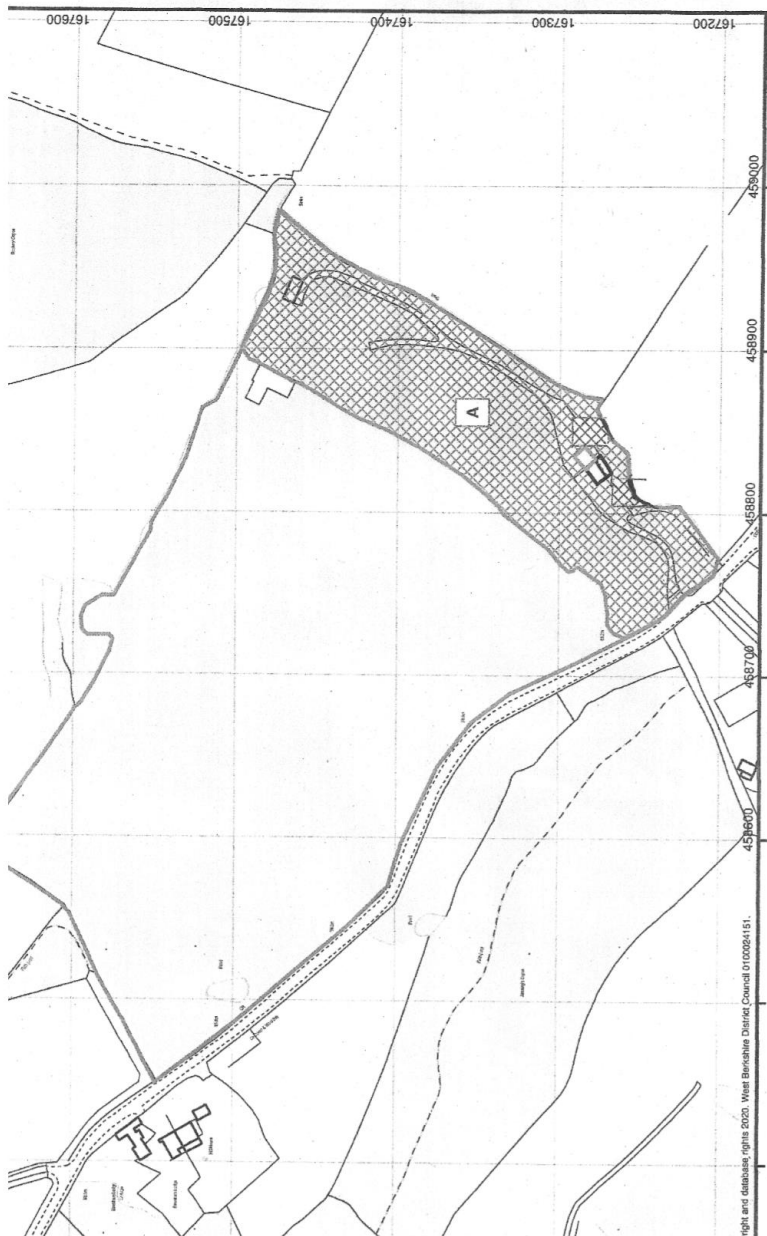
This is the plan referred to in my decision dated: 20 February 2020

by **Simon Hand**

**Land at: Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire  
RG75QH**

**Reference: APP/W0340/C/18/3199829**

Scale: not to scale



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## Lawful Development Certificate A

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 8 June 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black and labelled 'A' on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the mobile home has been occupied continuously for residential purposes for 10 years or more.

Signed

*Simon Hand*  
Inspector

Date: 20 February 2020

Reference: APP/W0340/X/18/3199841

### **First Schedule**

The stationing of a caravan for residential purposes.

### **Second Schedule**

Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan for LDC A

This is the plan referred to in the Lawful Development Certificate dated: 20 February 2020

by **Simon Hand MA**

**Land at: Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire  
RG75QH**

**Reference: APP/W0340/X/18/3199841**

Scale: not to scale



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## Lawful Development Certificate B

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

---

**IT IS HEREBY CERTIFIED** that on 8 June 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the land had been used for the storage of building materials and machinery for more than 10 years continuously.

Signed

*Simon Hand*

Inspector

Date: 20 February 2020

Reference: APP/W0340/X/18/3199845

### ***First Schedule***

The storage of building materials and machinery

### ***Second Schedule***

Land at Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire RG75QH

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan for LDC B

This is the plan referred to in the Lawful Development Certificate dated: 20 February 2020

by **Simon Hand MA**

**Land at: Wessex Downs Golf Club, Cods Hill, Beenham, Reading, Berkshire  
RG75QH**

**Reference: APP/W0340/X/3199845**

Scale: not to scale

