



Appeal Decision

Site visit made on 21 July 2020

by J A Murray LLB (Hons), Dip. Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 July 2020

Appeal Ref: APP/Y2620/X/19/3228039

Land to the rear of Lighthouse Inn, Coast Road, Walcott, NR12 0PE

- 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 S Bullimore against the decision of North Norfolk District Council.
 - The application Ref CL/19/0211, dated 4 February 2019, was refused by notice dated 3 April 2019.
 - 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 caravans for residential use.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application stated the claimed use as “the siting of six residential caravans” but, in its decision notice, the Council altered the description to that set out in the banner heading above. The appellant adopted that altered description in his appeal form, appeal statement and final comments, and his statement merely indicated that there were six caravans on site at the time of the appeal.

Main Issue

3. The issue is whether the Council’s refusal of an LDC was well founded. In this case, that will depend on whether the appellant has proved, on the balance of probability, that the use of the land materially changed to use for the stationing of caravans for residential use on before 4 February 2009 and that this use then continued for at least ten years after the date of change, without significant interruption.

Reasons

4. If the evidence were sufficient, an LDC could be granted for use of the land for the stationing of caravans for residential use, without specifying the number. However, recognising that caravan numbers are likely to fluctuate, any LDC should indicate a minimum, or perhaps average, number of caravans supported by the evidence in order to set a benchmark. This would enable future judgments as to whether any intensification might constitute a further material change of use. That said, if continuous use of caravans for residential purposes

could be shown, it would not matter that any of caravans themselves, or their precise location, had changed over time, or that the identities of the occupants had altered. Furthermore, as suggested by the terms of my main issue, short periods of time when caravans were not present or occupied would not necessarily interrupt the continuity of use; this would be a question of fact and degree.

5. The appellant has not personally submitted any sworn evidence, but the basis of his case is set out in a written statement from his agent. This indicates the appeal site was used as a Camping and Caravan Club licenced site until around 2005. This was limited to five caravans staying on the site for no more than 28 days at a time. However, as a result of changes in the way adjacent land was used, in 2006, residential caravans were moved to the appeal site. The statement says those caravans have remained on site since then and have been used as dwellings by workers from the Bacton Gas Terminal. It explains that, whilst the caravans change from time to time, the use does not.
6. Sworn written testimony is provided in the form of statutory declarations from the following people:

Susan Batchelor (sworn 1 February 2019)

This lady says:

- she has worked as a Catering Manager at The Lighthouse Inn for 28 years;
- the land has been used "for the standing of residential caravans for a period in excess of ten years prior to 1st December 2018";
- "there have been residential caravans parked on this land for at least ten years"; and
- "the caravans...have been used for full time residential accommodation for at least ten years." (She does not indicate the number of caravans).

Andrew Colman (sworn 1 February 2019)

Mr Colman says he has worked as a Chef and General Manager at The Lighthouse Inn "for 10 years", but otherwise his declaration is in the same terms as Susan Batchelor's.

Brian Hedley Croft (sworn 1 February 2019)

Mr Croft says he has "serviced the fire equipment at the Lighthouse for the last 22 years and has "known the land...since March 1996", but otherwise his declaration is in the same terms as Susan Batchelor's.

James Charles Plummer (sworn 31 January 2019)

Mr Plummer says he is a repair and maintenance electrician and has provided electrical services at The Lighthouse Inn for 23 years, so has known the land since August 1995, but otherwise his declaration is in the same terms as Susan Batchelor's.

7. I give due weight to sworn written evidence, but also have regard to the Planning Practice Guidance (PPG), which indicates that the applicant's evidence

needs to be sufficiently precise and unambiguous to justify the grant of an LDC on the balance of probability.

8. The sworn statements do not give precise dates, but rather indicate that "residential caravans" have been "parked on the land for at least ten years" and "used for full time residential accommodation for at least ten years." Most people cannot be expected to remember precise dates from 10 or more years ago, and the PPG does not demand absolute precision. Nevertheless, there is no detail in any of the statutory declarations to indicate why the witnesses are confident that the change took place more than ten years ago. Furthermore, there is nothing to indicate what any of the witnesses understand by the term "residential caravans." Even if the expression "full time residential accommodation" can be readily understood, there is no detail which would enable me to conclude on the balance of probability that occupation had been continuous, that is, without any significant breaks throughout the relevant ten year period. In that regard, it is not clear how often Mr Croft and Mr Plummer visited the site. None of the declarants indicates the numbers of caravans that have been present on site or occupied throughout that period.
9. The extent of each person's recollection and understanding could be better gauged, and more weight could be given to it if the statutory declarations were in their own words. However, they are clearly not, as all the key parts are in precisely the same words. None of this suggests any of the declarants knowingly made false statements, but it limits the usefulness of what they say.
10. Against this background, the appellant has submitted no corroborative evidence, such as records of occupants or periods of occupation and, perhaps most notably, there is no statement from anyone who occupied a caravan on the site over the years. It is reasonable to expect that some evidence of this nature could be provided. The absence of Council Tax or electoral registration records will rarely be decisive; just because someone is not registered at an address does not mean that they are not there. Nevertheless, the appellant cannot point to such records to support his case.
11. In his final comments, the appellant suggests aerial photographs supplied by the Council show that caravans have been on the site for over ten years. Aerial photographs can be difficult to interpret, for example, it is not always easy to tell whether they show the roof of a caravan, or the roof of some other vehicle. Furthermore, photographic images are quite literally 'snapshots' in time and where they are captured years apart, it will not often be possible to assume continuity in the interim.
12. The Council produces aerial images from 2006, 2010, 2014 and 2017. The 2006 image shows 5 items which are probably caravans and 1 which could be. The 2010 photograph appears to show just 1 object which might be a caravan. The 2014 image shows 2 or 3 objects which could be caravans and the 2017 photograph shows 4 items which are probably caravans and 1 which might be. There are very substantial gaps between the images and, overall, they fall a long way short of demonstrating that there was any minimum number of caravans on the site throughout the 10 year period let alone that, if there were, they were occupied as "full time residential accommodation."
13. Against the background of evidence provided by the Council, the appellant's evidence is neither sufficiently precise nor unambiguous. For all the reasons given, I conclude that he has failed to prove, on the balance of probability, that

the use of the land materially changed to use for the stationing of caravans for residential use on before 4 February 2009 and that this use then continued for at least ten years after the date of change, without significant interruption. I therefore find that the Council's refusal of an LDC was well-founded and the appeal must fail.

J A Murray

INSPECTOR