The Planning Inspectorate

Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 20 May 2021

Appeal Ref: APP/Q3305/X/20/3264330
Lower Chatley Farm, Woolverton, Bath BA2 7RQ

- 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 Richard Holdway against the decision of Mendip District Council.
- The application Ref: 2020/1115/CLP, dated 10 June 2020, was refused by notice dated 13 November 2020.
- 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 15 static caravans and 5 tourers/tents pitches.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Procedural Matters

2. Prior to determining the appeal, I sought the views of the appellant and the Council about not needing to visit the appeal site. This is because in my opinion both sides had submitted sufficient evidence for me to consider the issue in dispute. The Council expressed that it would prefer me to see the site to understand the landscape character of the area. However, considering whether the proposed use falls within the lawful use of the land against the background of a previous planning permission, which I consider below, does not involve forming any opinions about the effect of the proposal on the character and appearance of the surroundings. Moreover, if the proposed use is lawful on this basis, any visual consequences of the scheme would be beyond my remit. In view of this, and my subsequent findings, I am satisfied that no prejudice has been caused to either side by not visiting the site.

3. The stationing of caravans and tents on land is normally taken as constituting a use of land. The description of what has been applied for does not define what the use of the caravans and the tents would be for. It is, however, clear that they would be used for holiday purposes only and the appellant's case is advanced on that basis. The Council also considered the LDC application as such. As it is not possible to attach conditions to certificates of lawful development, it is appropriate to add to the description of the proposed use to

define what the caravans and tents would be used for. This clarification is in the best interests of both sides and causes no injustice.

Main Issue

4. The main issue is whether the Council's decision to refuse a LDC to use the land for the siting of 15 static caravans and 5 tourers/tents pitches for holiday purposes only was well founded.

Reasons

5. The appeal site was granted planning permission (Ref: 2017/1773/FUL) in 2017 for use of the land as a camping and caravan site for up to 20 pitches. The planning permission does not restrict the time that caravans can be on the land or restrict the use of the site to only certain times of the year. There are conditions that restrict the use of the pitches to, in short, holiday purposes only, that there are no more than 20 pitches and there shall be no storage of caravans on the site. There are other conditions, but the ones cited are most relevant to considering this appeal.

6. The term 'caravan' is defined in s29(1) in the Caravan and Sites and Control of development Act 1960 (CSCDA) as meaning 'any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. Where a planning permission relates to caravans, as the 2017 permission does, it should be construed in accordance with the statutory definition, which means that caravans are mobile by definition.

7. Provided, therefore, that any static caravans proposed to be sited on the appeal site fall within this definition, and they are within the size limits defined in the CSCDSA and the Caravan Sites Act 1968 (CSA), they would be caravans that would come within the lawful use of the land established by the 2017 planning permission. Moreover, the appellant has confirmed that they would be used for holiday purposes only in accordance with condition 3 of the 2017 planning permission.

8. Linking any static caravans up to services such as gas, electricity and drainage would be very unlikely to mean that a caravan which remained mobile (which does not need to be by being moved on its own wheels and axles, provided that the unit can be picked up intact, including its floor and roof, and put on a lorry by crane or hoist) would become a permanent building operation as it is invariably simple to detach caravans from such services. I, however, make it clear that whether planning permission would be required for ancillary works and operations, including hardstandings, are not matters before me.

9. I recognise that any static caravans could become permanent in the sense that they might be on the land all year round, but provided they accorded with what I have outlined above, this would not put them outside the scope of the 2017 planning permission. This may not be the touring caravan and camping facility the Council had in mind when the 2017 permission was granted, but as a matter of fact it allowed a caravan site for up to 20 pitches to be used for holiday purposes. Furthermore, provided that the static caravans remained available for holiday use, which is what is intended, they would not be stored on the land. Periods of non-occupation for holidays would not automatically

mean static caravans would become just stored. A storage use, whether that is for caravans, motor homes or camper vans, would be a materially different use of the land separate from the lawful land use for holidays in caravans. Based on the circumstances of this case, what is proposed would not breach condition 7 of the 2017 planning permission.

10. In view of the above, it is very clear that the proposed siting of 15 static caravans and 5 tourers/tents pitches for holiday purposes only would fall within the scope of the 2017 planning permission and thus be a lawful use of the land. For the purposes of s191(2)(a) of the 1990 Act, therefore, the proposed use would be lawful. Consequently, I have no scope to consider the visual impact of the proposal on the character of the area.

Conclusion

11. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of 15 static caravans and 5 tourers/tents pitches was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Gareth Symons

INSPECTOR

The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 10 June 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use of the land would accord with the lawful use of the land established by the grant of planning permission ref: 2017/1773/FUL.

Signed

Gareth Symons

Inspector

Date 20 May 2021
Reference: APP/Q3305/X/20/3264330

First Schedule

The use of the land for the siting of 15 static caravans and 5 tourers/tents pitches for holiday purposes only.

Second Schedule

Land at Lower Chatley Farm, Woolverton, Bath BA2 7RQ

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 20 May 2021

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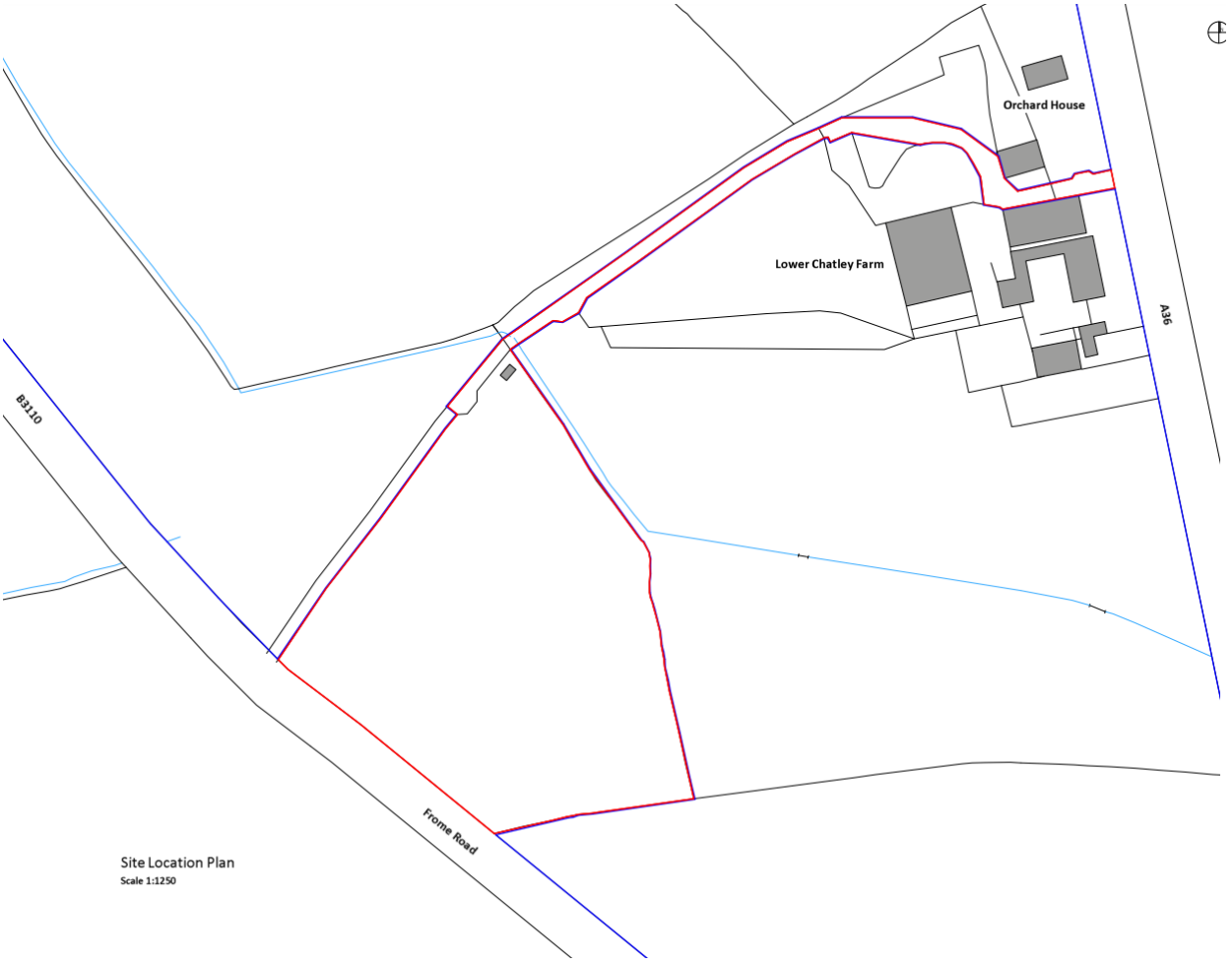
Land at: Lower Chatley Farm, Woolverton, Bath BA2 7RQ

Reference: APP/Q3305/X/20/3264330

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