
Appeal Decision

Site visit made on 7 July 2021

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

an Inspector appointed by the Secretary of State

Decision date: 08 July 2021

Appeal Ref: APP/N2739/X/21/3268396

Sycamores Retreat, Moor Lane, Ryther, LS24 9EP

- 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 J Crickmore against the decision of Selby District Council.
 - The application Ref: 2019/1248/CPP, dated 14 November 2019, was refused by notice dated 20 January 2021.
 - 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 use of land within the existing caravan site boundaries for the siting of static caravans up to a maximum of 26 caravan units on the site at any one time.
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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 considered to be lawful.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary matters

3. The description of the proposed development in the Council's decision notice reads "Lawful development certificate for proposed use of land for the siting of static caravans." However, the application was made on the basis of the description set out in the 5th bullet point above. The Council's amendment does not appear to have been agreed with the appellant and I shall determine the appeal on the basis of the original description.

Reasons

4. Planning permission was granted by the Council on 14 December 2012 in respect of the The Sycamores, Ryther, for "*Change of use of land to allow siting of 10 no. timber holiday lodges and use of existing residential cottage and annexe as self catering holiday accommodation and the installation of a package treatment plant*" (Ref: 2012/0357/COU). A further permission was granted on 25 October 2016, with the same site boundary, for "*Proposed*

change of use of land to allow the siting of an additional 5 no. timber lodges to make a total of 15 no. lodges including access and non-mains drainage” (Ref: 2016/0557/COU).

5. Both permissions were granted *“in accordance with the application drawings and particulars”* and were subject to a number of planning conditions. Condition no.02 (2012) and no.08 (2016) state *“The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:-”*. Each of these conditions then goes on to list 3 drawings, the most relevant to the current case being a proposed site layout plan forming part of the 2016 permission showing the internal road layout and the positions of the 15 lodges:- PB 16/38 drawing 1 (Rev E).
6. It appears to be accepted by both parties that the lodges, both existing and proposed, fall within the statutory definition of a caravan. Both the 2012 and 2016 permissions were granted on the basis that they permitted a use of the land, rather than operational development, and the present application for an LDC appears to follow the same approach.
7. Both the 2012 and 2016 permissions contain a condition stating that the timber lodges shall not be occupied as a person’s sole or main place of residence and a further condition restricting the permitted use to holiday use only. The appellant has clarified that there is no intention to alter the occupancy of any of the caravans – he accepts that conditions attached to the relevant permissions remain in force and would continue to limit the use to holiday accommodation and prevent occupation as a person’s sole or main residence.
8. It is also common ground that the full extent of the planning unit, bounded by the red line, benefits from the approved change of use in 2012 and 2016.
9. The starting point in interpreting a planning permission has to be the permission itself. The description of a planning permission must have a functional purpose. It defines what the developer is permitted to undertake in implementing that permission. For example, in *Wilson*¹, the court held that the description of an “agricultural cottage” defined exactly what was permitted. Despite the absence of a condition to the contrary, the Inspector was entitled to conclude that occupation by a non-agricultural worker entailed a material change of use from that which was permitted
10. In the present case, the most recent (2016) permission allows the siting of 15 lodges. They were required to be laid out, as per condition no.08, in accordance with drawing PB 16/38 drawing 1 (Rev E). In assessing the proposal now before me, I need to consider whether the use of the land for the siting of up to 26 static caravans would amount to a material change of use and, if so, whether such a use would be expressly prohibited by way of this or any other condition.
11. The most significant aspect of the additional caravans is that they would be of a type which appears to exhibit no material difference in character from those of the 15 lodges already permitted. As indicated above, they would fall within the statutory definition of a caravan and would be for holiday use only, with no permanent occupation. It does not appear to be part of the Council’s case that

¹ *Wilson v West Sussex CC* [1963] 2 QB 764

the siting of additional caravans of this type would amount to a material change of use.

12. In terms of visual impact, the site has very substantial boundary vegetation which results in its being very well screened from those public vantage points on nearby roads and footpaths that I was able to access. Because of this, the additional caravans would in my view be absorbed into the site with little impact on the wider landscape.
13. There would be some additional vehicle movements associated with the extra units but this would not appear to me to significantly alter the impact of the use on the local road network.
14. The development would still remain subject to the site licensing regime imposed by The Caravan Sites and Control of Development Act 1960, which mainly focuses on the safety and amenities of site users. However, it is not my role to assess whether the proposed additional units could be accommodated on site in compliance with site licensing provisions.
15. In my view, the siting of up to 11 additional caravans for holiday use would not result in a material change in the character of the existing, permitted use or of the wider surroundings of the site. As such, it would not amount to a material change of use of the site.
16. The Council's case is based on the effectiveness of condition no.08 of the 2016 permission. It sets out what the developer is required to do in order to implement that permission by reference to a plan. The Council points out that the plan is annotated to show the reduction in units from the originally proposed 18 units to the permitted 15. On that basis, the Council considers it should be clear that the number of units is limited.
17. However, the principle established in *I'm Your Man*² is that if a limitation is to be imposed on a permission granted pursuant to an application, it has to be done by condition. That principle was endorsed in *Cotswold Grange*³, a case which raised similar issues to those in the present case. Hence, whilst condition no.08 required the development to be implemented in accordance with a site layout plan, neither that nor any other condition appears to have any lasting effect which requires that situation to be maintained in the long term. Had the Council wished to limit the number of caravans on site to 15, it could simply and effectively have imposed such a condition, as it did in respect of holiday/permanent residential use.
18. Having found that the proposed development would not amount to a material change of use and neither would it be a breach of any planning condition in force, I am led to conclude that the Council's decision to refuse to grant an LDC was not well founded. Accordingly, the appeal succeeds and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

B.S. Rogers

Inspector

² *I'm Your Man Ltd v SSETR* [1999] 77 P&CR 251

³ *Cotswold Grange Country Park LLP v SSCLG & Tewkesbury BC* [2014] EWHC 1138 (Admin)



Lawful Development Certificate

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 14 November 2019 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The siting of a total of up to 26 caravans for holiday use would not amount to a material change of use from the use of the land permitted by planning permission ref: 2016/0557/COU and nor would it amount to a breach of any of the planning conditions contained within that permission.

Signed

B.S. Rogers
Inspector

Date: 08 July 2021

Reference: APP/N2739/X/21/3268396

First Schedule

The proposed use of land within the existing caravan site boundaries for the siting of static caravans up to a maximum of 26 caravan units on the site at any one time.

Second Schedule

Land at Sycamores Retreat, Moor Lane, Ryther, LS24 9EP

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

This is the plan referred to in the Lawful Development Certificate dated: 08 July 2021

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

Land at: Sycamores Retreat, Moor Lane, Ryther, LS24 9EP

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Scale: nts

