
Appeal Decision

Site visit made on 12 October 2021

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Appeal Ref: APP/G1630/X/21/3277211

Green Meadows Caravan Park, Bamfurlong Lane, Staverton, Cheltenham, Gloucestershire GL51 6SN

- 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 Turners Parks Group against the decision of Tewkesbury Borough Council.
 - The application Ref 21/00104/CLP, dated 26 January 2021, was refused by notice dated 23 March 2021.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
 - The use for which a certificate of lawful use or development is sought is for the use of land for the siting of 37 caravans for residential purposes.
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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.

Preliminary matters

2. Section 192(2) of the 1990 Act indicates that if, on an application under that section, the local planning authority is provided with information to satisfy that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, it shall issue a certificate to that effect. In any other case the application should be refused.
3. The subject of this appeal is an application for an LDC, not an application for planning permission and the planning merits of the matter applied for do not fall to be considered. The decision will be confined to the narrow issue of determining whether the use described in the application would be lawful if instituted at the date of the application and will be based strictly on the facts and on relevant planning law. The standard for the evidence is one of balance of probabilities.

Background

4. The caravan site has been in existence since 1952 and has been subject to several planning application which have been documented within the Council's and appellant's statements. It seems that there is no disagreement between the parties that the most pertinent permission was 92/0025/858/FUL which

was allowed on appeal¹ for the retention of 31 residential caravans (the 1993 permission). That permission was granted with only landscape requirements and without any restrictive conditions on the number of units.

5. Since the 1993 permission, an LDC² was granted on 5 March 2012 for the siting of 2 additional caravans on the front parking area and an LDC³ was refused on 19 July 2012 for the increase in caravans to seven additional units in part of the rear amenity area. This decision was appealed and although dismissed, it was agreed at the inquiry that the 1993 permission was implemented, that the condition was complied with and that the 5 year maintenance period expired long ago.
6. More recently an LDC⁴ was issued on 3 July 2019 for the use of land for the siting of 35 caravans for residential purposes (the 2019 LDC) and, following an initial refusal, an LDC⁵ was issued on 4 May 2020 for the siting of 36 caravans for residential purposes (the 2020 LDC). At my site visit, I saw that the creation of the hardstandings to accommodate the additional units were in place; one of the plots being carved from the garden area of an existing caravan at the north end of the site, and two plots sited within the amenity area for the caravan park. The site currently consists of 33 caravans in situ.

Main Issue

7. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded. The decision turns on whether the use of the land for the siting of 37 caravans for residential purposes would result in a material change of use of the land and thus constitute development, which would require express planning permission.

Reasons

8. Green Meadows is a caravan site occupied mainly by large single and double unit caravans which provide permanent residential accommodation. The site is rectangular with one internal U shaped road tightly lined by rows of caravans on either side along its entire length. The northern end of the site provides an open amenity area of land for the benefit of the residents. At the southern end is the single point of access to Bamfurlong Lane. The proposed additional unit would be stationed at the northern end of the line of caravans.
9. Although it is common ground that the number of caravans is not subject to conditions, the Council considers it to be material that the 1993 permission did not expressly authorise the siting of more than 31 caravans, nor did it imply that more caravans could be sited without it having to be first demonstrated that a material change of use of the caravan site would not occur.
10. In case law established by *I'm Your Man*⁶ and in the later case of *Cotswold Grange Country Park*⁷, the High Court considered the terms of a grant of planning permission "to erect and re-site 40 caravans and provide 14 additional

¹ T/APP/G1630/A/93/223564 dated 5 October 1993

² 11/01287/CLP

³ 11/01288/CLP

⁴ 19/00329/CLP

⁵ 20/00258/CLP issued on 4 May 2020

⁶ *I'm Your Man Ltd v SSE & North Somerset DC* [1999] 4 PLR 107

⁷ *Cotswold Grange Country Park v Secretary of State for Communities and Local Government* [2014] EWHC 1138 (Admin)

static caravans (within original area) and ancillary works (partially retrospective) all for year round holiday use”, which was not subject to any condition restricting the number of caravans on the site. The Court noted that “...the determinative issue... is not whether the limitation is imposed merely in terms of a restricted description of the permission granted, but whether it is in the form of a condition. That is the *I’m Your Man* principle.” It held that there is a difference between a limitation of numbers of caravans in the description in the grant of permission, and a limitation of such numbers in the form of a condition, and that only the latter was capable of imposing a limitation at law.

11. Nevertheless, the siting of an additional caravan, bringing the total to 37, would be an intensification of the present use. The intensification of an existing use can, but will not necessarily, amount to a material change of use. What is at issue is whether the extent and nature of the change amounts to a definable change in the character of the existing use of the site and whether, as a matter of fact and degree, the increase in the scale of the use of the land as a caravan park would reach the point where it gives rise to such materially different planning circumstances. In comparing the present and the proposed use, it is necessary to consider the planning consequences of the additional caravan on the site.
12. The caravan park is a densely compact residential estate close to the M5 and within the flight path of Gloucestershire (Staverton) Airport. A garden nursery covers a large area of land adjoining the caravan site to the east, and to the west is an area of grassed field, which contains a large building of some sort, and extends beyond the garden of the neighbouring residential property. I noted, at my visit, a further park home development within the immediate area to the other side of Bamfurlong Lane and an all-year-round camping and caravanning site to its east. The surrounding area is primarily rural in character and the site is within the Green Belt.
13. Within the site, the amenity space to the north end of the caravan park is an area of cut grass with an established tree lined boundary to the north. The shared boundary to the east is landscaped although there are views through to the garden nursery. To the west, the amenity land is currently bounded with Heras fencing which allows views towards the neighbouring field and a well-established landscaped boundary beyond.
14. The application plans show how the proposed caravan, parking space and small garden would be sited partially within the garden area of an existing caravan and partially within 55sqm of amenity area and an area allocated for 3 parking spaces by the 2019 LDC. The section of amenity land is of limited space and accessibility, being a narrow strip between the parking area and the boundary fence.
15. At the time of my site visit, I saw that the part of the site for the proposed caravan was surfaced with stone, and a high-level close-boarded fence separated it from the neighbouring land beyond the appeal site. A tall evergreen hedge defined the current boundary of the existing caravan whose garden would also be utilised to provide space for the proposed caravan. A low post and rail fence sits between the site and the remaining 2,396sqm of amenity area beyond.
16. Public views of caravans are currently limited to glimpses through the site access and along the internal driveway. It is clear to passers-by along the

highway that the caravan site is there, but it is largely secluded from public view. Whilst there maybe wider views towards the rear of the site, trees both within the site boundaries and within the wider landscape provide a discernible degree of screening. Furthermore, the additional caravan would be seen against the backdrop of the densely built-up site, positioned closely adjoining an existing caravan to its southern side and another lying parallel to the east. The additional caravan in this position, closely tucked in between caravans on two sides, would not visually extend the site at the expense of the rural character.

17. The addition of the caravan would not give rise to a level of traffic movements that would be noticeably different and there is no indication that the additional unit would present a problem in terms of parking provision or highway safety. In this respect, it is unlikely that the proposal would have a significant negative impact upon existing residents of the caravan park.
18. In my judgment the site would experience little change with the addition of one caravan on land which is mostly already in residential use as a garden area and for parking. Its domestic appearance would remain largely unaltered. Furthermore, there would be no alteration or extension to the service road, which had been considered lawful under the 2019 LDC.
19. While the character and appearance of the site would change to a limited extent, any such change would not, in my view, materially change the definable character of the use of the site. The siting of the additional caravan as proposed and shown on drawing AY.02B539947.04 dated 21/01/2021, would therefore be lawful given the accepted use of the land.

Conclusion

20. For the reasons given above I conclude, on the evidence available, that the Council's refusal to grant an LDC in respect of the siting of 37 caravans for residential purposes 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.

S A Hanson

INSPECTOR

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 26 January 2021 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the land for the siting of 37 caravans for residential purposes would not result in a material change of use of the land and thus not constitute development.

Signed

S A Hanson
INSPECTOR

Date: 11 November 2021

Reference: APP/G1630/X/21/3277211

First Schedule

Use of land for the siting of 37 caravans for residential purposes as described in application Ref 21/00104/CLP, dated 26 January 2021, and shown in the drawings submitted therewith.

Second Schedule

Land at Green Meadows Caravan Park, Bamfurlong Lane, Staverton, Cheltenham, Gloucestershire GL51 6SN

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 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, would not have been 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.

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.



Plan

This is the plan referred to in the Lawful Development Certificate dated 11 November 2021

by **S A Hanson BA(Hons) BTP MRTPI**

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Scale: Not to scale

