



Appeal Decision

Site visit made on 24 January 2022

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 08 February 2022

Appeal Ref: APP/D1265/X/21/3281612

Lyons Gate Caravan Park, Lyons Gate Dorchester DT2 7AZ

- 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 Raymond Grant against the decision of Dorset Council.
 - The application Ref WD/D/20/002538, dated 13 October 2020, was refused by notice dated 27 May 2021.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The proposed use for which a certificate of lawful use or development is sought is the use of land for the siting of 40 no. caravans for human habitation.
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Decision

1. The appeal is dismissed.

Reasons

2. For the purposes of this appeal, I refer to the land edged blue as the caravan park and the land edged red as the appeal site.

Planning Unit

3. Determination of the planning unit at the appeal site relates to the owner/occupier of the land in question, physical separation and the functional use of the land.
4. The owner/occupation is straightforward with the Lyons Gate Caravan Park owning/occupying the appeal site and the caravan park/fishery. There is some physical separation of the appeal site from the permitted caravan park. This consists in the main of a low fence and gates. However, there is direct access between the appeal site and the permitted caravan park, particularly in the far corner where static caravans are located by a lake. There is no fence between these static caravans and the appeal site.
5. Functional use of the land is quite different. There is a small part used for, amongst other things, overflow car parking for campers, which is accessed a little further along from the entrance barrier. There is also a small section used for storage. However, the vast majority is mixed woodland used for recreation by the occupiers of the caravan park. There is no access to this recreation area other than by the caravan site users as access to it is beyond the barrier to the caravan site.

6. There is a small area of cross-over where the static caravans located by the pond and appeal site are partially located in the appeal site as well as the caravan park. The area of these static caravans and their parking is covered by a planning permission granted in 2009, so a very small part of the appeal site has direct planning permission for the siting of static caravans. This permission has conditions, including requiring occupation for holiday purposes and safeguarding of trees.
7. A lawful development certificate [LDC] has recently been granted [2020] at the appeal site for *"use of the land for recreation, including woodland walks and children's play, car parking for staff, visitor overflow car parking, general storage and service yard, ancillary to Lyons Gate Caravan Park and Fishery"*. The lawfulness of any use, operations or other matter for which a certificate is in force is conclusively presumed.
8. The parties interpret this differently, but to my reading it is reasonably clear that the primary use certified by the LDC was for recreation. There are no exclusions, but it does add what would be included, i.e. woodland walks and children's play, car parking for staff, visitor overflow car parking, general storage and service yard, ancillary to Lyons Gate Caravan Park and Fishery. It does not state at any point that it is only for the ancillary use by Lyons Gate Caravan Park, just that the use by or 'ancillary' to Lyons Gate Caravan Park and Fishery would be included.
9. This must be the case as it is not possible to certify in a lawful development certificate an ancillary use; it must relate to a primary use. An ancillary use is normally one that would be a primary use in its own right, but because it is part and parcel of another use it does not need planning permission for its use, it is deemed ancillary to and, therefore, part of the primary use. An example of this would be a canteen or restaurant within a factory. A canteen/restaurant is a primary use normally requiring a planning permission, but because it is ancillary to the factory use it is deemed to come under the factory primary use. Any lawful development certificate related to the canteen would certify it as the primary factory use and not as an ancillary canteen/restaurant. The judgement will relate to many things, but the relative size is a factor in determining whether a use is ancillary to the primary use or whether it is a primary use in its own right.
10. So in this case the land's use is mainly recreational and that is how the council has worded the certificate. If the land use has changed to primarily a caravan site, with the land being used for recreation, any certificate would need to certify the use of the land as a caravan site, with the understanding that the current use of the land was ancillary to that use.
11. Overall, I acknowledge that in terms of ownership and occupation the weight is heavily in favour of the appellant; in terms of physical separation, I think it is fairly neutral, but with some separation that generally clearly defines the two pieces of land. There is some cross-over by the existing static caravans, with access between the two parts relatively easy. However, that is limited in relation to the whole and there is a specific planning permission for it. There is a great distinction between the function of the caravan park and appeal site and the weight here is greatly in favour of the Council's view. Overall, I conclude that there are two planning units, one for the caravan park and one

for the appeal site, although some minor adjustment of the boundary should be considered by the static units, to take account of their planning permission.

Material Change of Use

12. The appellant is asking whether 40 caravans would be lawful and has provided an illustrative layout. Plainly a change of use from recreation to a caravan site has major planning implications that could change the character of the land significantly with the extent and type of use needing control, as with the caravan site. I conclude that there would be a material change of use in providing 40 caravans and that planning permission is required.
13. For the reasons given above I conclude that the council's refusal to grant a certificate of lawful use or development in respect of use of land for the siting of 40 no. caravans for human habitation was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Graham Dudley

Planning Inspector

