The Planning Inspectorate

Appeal Decision

No site visit made

by M Madge DIPTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022

Appeal Ref: APP/R3650/X/21/3285600
South Fork, Wrotham Hill, Dunsfold, GODALMING GU8 4PA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use (LDC).
- The appeal is made by Mr David Stedman against Waverley Borough Council.
- The application ref WA/2021/02581 is dated 24 August 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 siting of a caravan for ancillary agricultural purposes.

Decision

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

Applications for costs

2. An application for costs was made by Mr David Stedman against Waverley Borough Council. This application is the subject of a separate decision.

Preliminary matters

3. I visited the site in respect of 3 previous appeals on 14 September 2021. The main parties confirmed there have been no significant changes, since my visit and agreed that there was no need to carry out a further site visit.

4. On the appeal form the appellant identifies the application reference as PP.10159879v1, which is the Planning Portal's reference. The Questionnaire confirms that the Council's application reference is WA/2021/02581, which I have used for clarity.

5. The Council did not provide a statement of case within the statutory period. Within their final comments, dated 24 January 2022, the Council claim that the appeal is invalid as the appeal against non-determination was lodged before their statutory determination period had expired. Comments are however offered by the Council in response to the appellant's case, if it is found that the appeal is valid.

6. The Council was notified that the appeal was valid on 26 October 2021 and raised no concerns regarding validity at that time. The LDC is dated 12 August 2021 and the 'Planning Portal Attachment Summary' confirms that the application was made on 24 August 2021. Article 39 of Part 3 of the DMPO[1] sets out, in paragraphs 1 to 4, what is required to make an LDC application.

[1] The Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended

Relevant to this case, the application would need to include: a completed form, a plan identifying the site, such evidence verifying the information included in the application as the applicant can provide, and clarification of the applicant's interest in the land. The copy of the application submitted with the appeal complies with the Article 39 requirements and it is not clear why the Council did not consider the application to be valid upon receipt. Accepting that the application was valid upon receipt, the appeal was therefore made outside the Council's statutory determination period and I find the appeal to be valid.

Reasons

7. The **main issue** is whether the Council's deemed refusal to issue a lawful development certificate was well founded.

8. The Council does not dispute that the lawful use of the land, at the time the LDC was made, was for agricultural purposes. Therefore, the continued use of the land for agriculture or ancillary agricultural purposes would not constitute development. I concur with the appeal parties that the siting of a caravan for ancillary agricultural purposes would not constitute a material change in the use of the land. S55(1) of the 1990 Act[2] confirms that for a change of use to be 'development' it must be material. The proposal would not constitute a material change in the use of land and therefore it is not development.

9. Where a proposal is found not to be development, there is no need for the appellant to justify the proposed ancillary agricultural use.

Other matters

10. A doctor's letter, dated 20 August 2021, accompanies the LDC submission and sets out details pertaining to the appellant's personal circumstances. This letter offers support to the provision of *'a very simple dwelling on site'* or *'a removable mobile home'*. The use of a caravan for either of those purposes would be substantially different to the ancillary agricultural use applied for. Such residential uses are not therefore before me for consideration.

Conclusion

11. For the reasons given above I conclude, on the evidence now available, that the Council's deemed refusal to grant a certificate of lawful use in respect of the siting of a caravan for ancillary agricultural 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.

M Madge

INSPECTOR

[2] The Town and Country Planning Act 1990

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 24 August 2021 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged by the bold black line 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 siting of a caravan for ancillary agricultural purposes would not constitute a material change in the use of the land.

Signed

M Madge
Inspector

Date: 17 May 2022
Reference: APP/R3650/X/21/3285600

First Schedule

The siting of a caravan for ancillary agricultural purposes.

Second Schedule

Land at South Fork, Wrotham Hill, Dunsfold, Godalming GU8 4PA

IMPORTANT NOTES – SEE OVER

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.

Plan

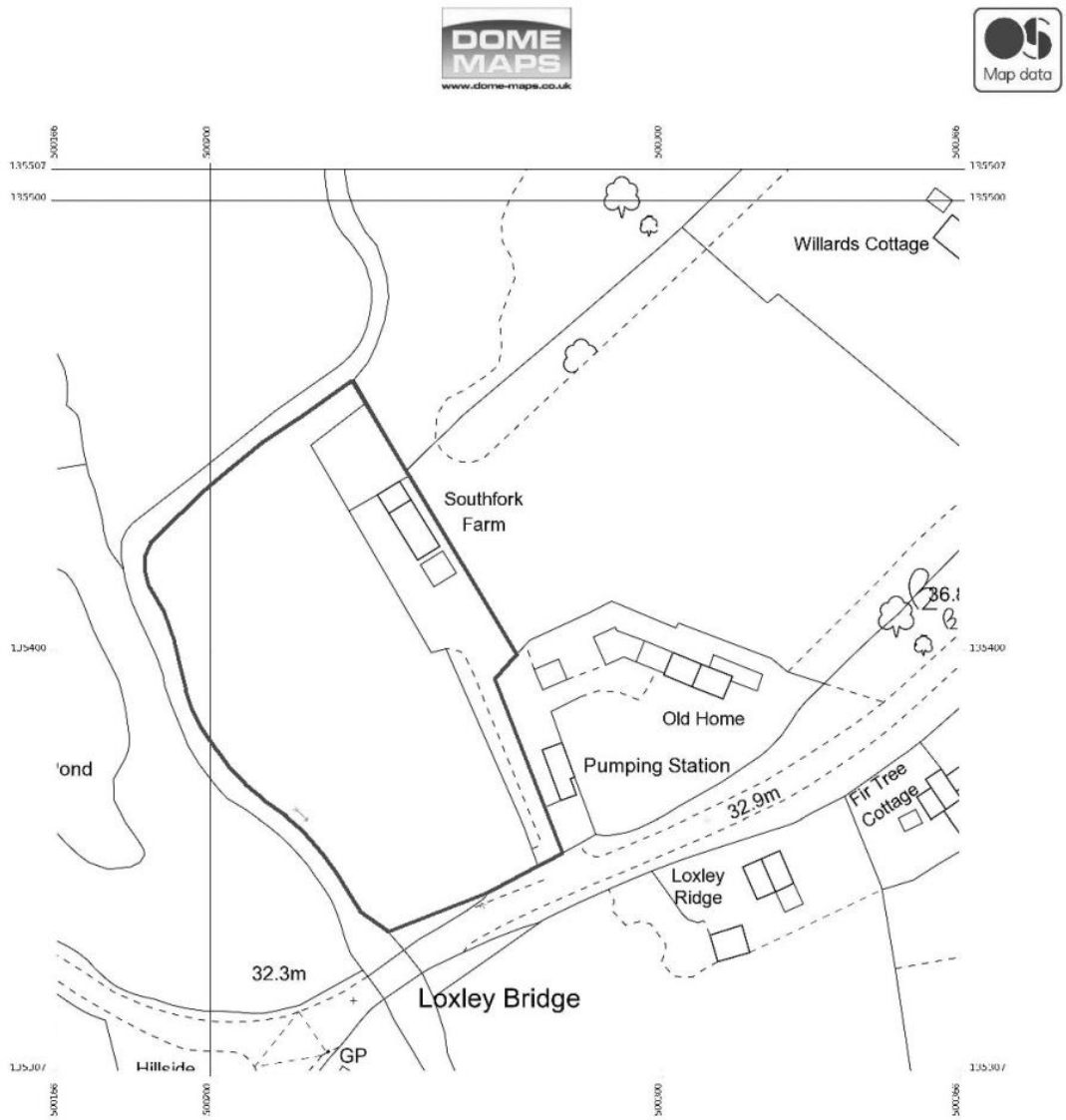
This is the plan referred to in the Lawful Development Certificate dated: 17 May 2022

by M Madge DIPTP MA MRTPI

Land at: South Fork, Wrotham Hill, Dunsfold, Godalming GU8 4PA

Reference: APP/R3650/X/21/3285600

Scale: Not to Scale



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Metres 0 10 20 30 40 50

1:1250

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Centre coordinates: 500266 135407

N

Southfork Farm, Wrotham Hill, Dunsfold, Godalming
GU8 4PA