



Appeal Decision

Site visit made on 15 November 2022

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 08 December 2022

Appeal Ref: APP/Y9507/X/22/3295638

Lone Barn Farm, Church Lane, Greatham, Liss, Hampshire GU33 6HB

- 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 Sam Giles against the decision of South Downs National Park Authority (the NPA).
 - The application Ref SDNP/21/05124/LDE, dated 10 October 2021, was refused by notice dated 15 March 2022.
 - The application was made under section 191(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 use of the land as a caravan site.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issue

3. The main issue is whether the NPA's refusal to issue a certificate of lawfulness for the use of the land as a caravan site was well founded.

Reasons

4. Under s191(1)(a) of the 1990 Act, any person who wishes to ascertain whether any existing use of buildings or other land is lawful may make an application for the purpose to the local planning authority specifying the land and describing the use. S191(2)(a) of the 1990 Act specifies that for the purposes of the Act, uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason).
5. The time limit relevant for taking enforcement action under s171B(3) of the 1990 Act regarding the use of buildings or other land is the end of ten years beginning with the date of the breach. The ground under which the appellant applied for the LDC was that the use began more than ten years before the date of the application, which would be 10 October 2011 in this case, and has continued since at least that date to the present time. The burden of proof falls

- squarely on the appellant to demonstrate that conclusively, on the balance of probabilities.
6. The use for which an LDC is being sought is the use of the land as a caravan site, in other words land on which at least one caravan has been continuously sited and used for purposes of human habitation.
 7. The substantive evidence provided by the appellant, who purchased the site in May 2020 and now lives with his family in a static mobile home on the land, consists of a statutory declaration from the daughter of the previous owners from whom (via probate) he acquired the land.
 8. All that statutory declaration establishes is that the declarer's parents acquired the land in 1997 and used a touring caravan on the site continuously from 2005 until their death in 2017 as a 'recreational tea room for the majority of summer weekends', that it 'was used on an ad-hoc basis for overnight accommodation a few times a year by my father' and that 'there are associated services connected to the caravan including electricity, gas bottle and water' in place since 2005. All these statements support, as the NPA allege, is that a caravan was generally used as a tea or rest room for the previous owners and their daughter whilst looking after their horses that grazed on the land, albeit one of the previous owners very occasionally slept overnight in it.
 9. The appellant mentions a total of three caravans being located on the site, including when he purchased the land. But no evidence has been provided that three caravans have been continuously sited on the land for the last 10 years, let alone being used for purposes of human habitation.
 10. I agree with the NPA that the evidence provided by the appellant, on the balance of probability, does not establish that human habitation has been taking place in at least one caravan continuously for the last 10 years. Consequently, such evidence comes nowhere near to establishing the lawful use of the land as a caravan site used for continuous human habitation for the last 10 years. The appellant's occupation of the site for such at present is therefore manifestly unlawful.
 11. For the above reasons, I conclude that the Council's refusal to grant a certificate of lawful use or development was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in Section 195(3) of the Act as amended.

Nick Fagan

INSPECTOR