
Appeal Decision

Site visit made on 14 February 2023

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 01 March 2023

Appeal Ref: APP/D1265/X/21/3270768

Oathill Farm, Oathill, Crewkerne TA18 8PZ

- 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 Lennon of Cedar Street Capital Ltd against the decision of Dorset Council.
 - The application Ref WD/D/20/001135, dated 14 May 2020, was refused by notice dated 14 January 2021.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended ('the Act').
 - The use for which a certificate of lawful use or development is sought is use "as a caravan site for occupation as a person's sole or main place of residence" would be lawful because the use would not be in breach of a condition or represent a material change of use.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. There was no-one present to represent the Appellant when I visited the site. A member of the site's staff was working and, after I explained the purpose of my visit, it was agreed that I could inspect the site unaccompanied. The Council's representative had no objection to this and left me to undertake the visit alone. I wrote to the Appellant company after the event to ask if there were any objections to me proceeding in this manner. It was confirmed in an email that there were none.
3. The application was made under s191 of the Act, to establish whether the use of the land referred to in the description is lawful. The Council determined the application on the basis that it was, in its opinion, a certificate of proposed use under s192 of the Act. As no case has been made that the use referred to in the application has occurred, I have assessed this appeal as one for a certificate of proposed use. This does not prejudice either party.

Main Issue

4. The main issue is whether the Council's decision to refuse to issue a certificate of lawfulness was well-founded.

Reasons

5. In an appeal made under s195, the onus lies with the Appellant to make their case on the balance of probability. This is an appeal that deals solely with the lawfulness of the development. Therefore, the planning merits of the use and planning policy relating to it, play no part in the decision.
6. The site lies to the southwest of Crewkerne in a rural location on the east side of the B3165, from which it is accessed. On the site I saw areas for the parking of vehicles, three timber lodges, a number of gravelled areas with pick-ups which were suited to site caravans, grassed areas where there were ponds and one grassed area which had pick-ups on two sides. Also within the site was a dwellinghouse and a range of former agricultural buildings. A public right of way runs through the site, close to its eastern boundary, from where much of the site is clearly seen.
7. The parties agree that the land benefits from a planning permission¹ dating from 2008 for the 'Change of use of redundant farm buildings to holiday accommodation, ancillary facilities and function room; change of use of land to camping and caravanning; form terraced camping/caravan pitches; retain static caravans (3 for holiday accommodation and 2no for washing/toilet facilities) and construct two ponds. Make alterations to vehicular access and driveway' ('the 2008 permission').
8. This permission was subject to 9 conditions, which covered a range of issues. Only one of these specifically restricted the use of accommodation on the site; condition 2 stated that "The accommodation identified on the approved drawings reference P2 3P 01 and P2 3P 02A shall be occupied for holiday accommodation only". Those drawings show the accommodation formed through the change of use of redundant farm buildings to holiday accommodation, rather than caravans that are the subject of this appeal.
9. The Appellant's case is that the 2008 planning permission established the use of the land as a caravan site and it allowed for the use of the caravans for either "holiday or for other type of occupation" and, as there was no restrictive condition, there is no enforceable limitation on the occupation and use of the caravans on the land.
10. A subsequent planning application² was granted planning permission in 2015 to "Develop land with the siting of 22 log cabins and use of machine storage area for touring caravan storage. Retain overnight Camping and touring pitches". The Appellant states that the permission was not implemented, but the development did not need permission in any event by reason of the 2008 permission. The Council does not challenge that the 2014 permission was not implemented, so from the evidence before me and on the balance of probability, I take it to be the case. This being the case, the 2008 permission dictates the lawful use of the land.
11. In the absence of a condition limiting the use of the site, established case law sets out that the use for which planning permission had been granted had to be ascertained by interpreting the words in the planning permission itself. In the case before me, I have to establish the meaning of the description of development in the 2008 permission. In particular, the meaning of

¹ Council Reference - 1/W/07/000758

² Council Reference - WD/D/14/001903

caravanning, on which the appeal turns. From this, I have to determine whether the use of the land as a person's sole or main place of residence would represent a change of use from what was permitted and, if so, would this be a material change of use ('mcu').

12. The Appellant's position is that caravanning is not a use of land. The use of the land is as a caravan site, a use that has a statutory definition in Part 1, Section 1 of the Caravan Sites and Control of Development Act 1960 (as amended). It states that "*caravan site*" means *land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed*'. The Appellant goes on to say that this definition does not distinguish between the type of caravans or the type of occupation. Even if the Council's reliance on the dictionary definition was right, it says, there is no express holiday occupancy condition on this site, save for that relating to the conversion of farm buildings.
13. The Council says that although there was no controlling condition on the occupation of the caravans, the words of the description of development cannot be ignored. It sets out, based on dictionary definitions, that caravanning is "the activity of spending a holiday in a caravan", not living in one.
14. I find that, read in an ordinary manner, the term 'caravanning' means taking a holiday in a caravan. In this respect, were one to be in full-time occupation of a caravan one would not say "I am caravanning", but "I live in a caravan". Therefore, I find the Council's position to be the correct one, and that the description of the development in the 2008 permission only permits the occupation of caravans on the land for holiday purposes. There would, therefore, be a change of use of the land were caravans there used as a person's main or sole place of residence. The occupation of caravans on the land as a person's main or sole place of residence would nonetheless be permitted by the 2008 permission if it did not amount to a material change of use.
15. I am sure that the character of the site as it stands would be likely to vary considerably through the year. Given its location in attractive countryside, relatively close to the 'Jurassic Coast' and with easy access to tourist attractions and small country towns, I have no doubt that this site is very popular from mid-Spring to mid-Autumn. In the height of the season it would be very busy with a large number of holidaymakers.
16. There would be a variety of caravans on the site and around them their occupants would have their holiday furniture, games equipment, and clothes, in particular swimming gear, drying. There would be comings and goings throughout the day in this period, with a large number of movements in and out on 'changeover day'.
17. The scene that I saw at my site visit would be likely to be the norm outside this period, and its character contrasts greatly with what I describe above. Save for one small camper van with an awning and one lodge occupied, the site was empty. Outside the period from mid-Spring to mid-Autumn, there would be far fewer visitors, with fewer vehicle movements.
18. Were the site to be used in the manner proposed, rather than two distinct periods of activity in the year there would be a constant level of activity across the site throughout the year. The land would have a year-round domestic

presence and appearance. There would be no 'fallow period' in the winter, and domestic paraphernalia would be on site throughout the year. Patterns of movement would also be different, with the likelihood of more trips at peak times going to and from school and work. There would also be vehicle movements relating to post and home shopping deliveries which would not be commonplace with a holiday use, as well as social visits from family and friends.

19. The nature of the changes to the character of the site that I have described would, to my mind, mean that a material change in the use of the land would occur. A material change of use of the land is development that requires planning permission, in the absence of which the proposed use would not be lawful for the purposes of sections 191 and 192 of the 1990 Act.
20. This being the case, the Council would be able to take enforcement action against the use of the land in the manner described in the application.
21. The decision notice for the 2008 permission showed that it was based on a number of drawings and photographs. Save for the location plan and floor plans of the barns that were permitted to be converted, none of these were provided to me. I note that there were several drawings that would appear to be approved site layouts. I cannot be sure whether these define where caravans would or would not have been permitted to be sited. Therefore, had I been allowing the appeal, I would have sought further information and might have needed to use my powers to amend the site plan that accompanied the appeal. However, as I have found against the appeal on the substantive point there is no need to pursue this.

Conclusion

22. I find that the use of the site as a caravan site for occupation as a person's sole or main place of residence would not be lawful.
23. 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 as a caravan site for occupation as a person's sole or main place of residence 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.

Roy Curnow

Inspector