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# Appeal Decision

Site visit made on 31 January 2023

**by Richard S Jones BA(Hons), BTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 March 2023**

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**Appeal Ref: APP/Y3615/X/22/3300740**

**Summer Place, Pirbright Road, Normandy, Surrey GU3 2AQ**

- 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 or development (LDC).
  - The appeal is made by Bill Bousfield against Guildford Borough Council.
  - The application ref 22/P/00680 is dated 11 April 2022.
  - 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 an additional caravan within the land edged red shown on the plan accompanying the application for residential use.
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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 found to be lawful.

## Applications for costs

2. An application for costs was made by Mr Bill Bousfield against Guildford Borough Council. That application is the subject of a separate decision.

## Preliminary Matters

3. An application under s192(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act) seeks to establish whether the proposed use would be lawful if instigated or begun at the time of the application. The onus is on the appellant to make his case and the relevant test is 'the balance of probabilities'.
4. Around the time of making the appeal, the appellant submitted an identical application to the Council, which was subsequently refused on 8 August 2022 (reference: 22/P/01002). The Council's case for this appeal is based on the officer report and decision for that application.

## Main Issue

5. The main issue is whether the Council's decision to refuse a LDC for the siting of an additional caravan for residential use was well-founded.

## Reasons

6. The site presently includes a caravan and small garden area along with a shed, garage and car port. It evidently forms a single planning unit. The LDC is sought for an additional caravan within the site for residential use.

7. The term 'caravan' is defined in s29(1) of the Caravans Sites and Control of Development Act 1960 (CSCDA 1960) as meaning 'any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent'. In law, a caravan is only a caravan if it meets that definition, or the definition of a 'twin unit caravan' as laid down in s13 of the Caravan Sites Act 1968 as amended (CSA 1968).
8. The officer report and reason for refusing the identical LDC application highlight that no information had been provided in relation to the size or siting of the additional caravan that could be assessed against s29(1) of the CSCDA 1960 or s13 of the CSA 1968. Given the lack of information the Council found that the proposal fails to meet Schedule 2, Part 5 of the GPDO<sup>1</sup>, which provides permitted development rights for caravan sites and recreational campsites.
9. However, where a LDC relates to a caravan, the word should be construed in accordance with the statutory definition. The application need not be supported with detailed plans of the caravan, or indeed details of its siting, and the Council could have assumed it would meet the lawful definition. If it transpired that it did not meet the definitions of a caravan in law, it may result in a breach of planning control, which is liable to enforcement action by the Council. That approach is consistent with the two appeal decisions<sup>2</sup> and three costs decisions<sup>3</sup> referred to by the appellant.
10. Although raised by the Council, the appellant's case is not based on permitted development rights, it is that the siting of a caravan is not development, thereby requiring planning permission.
11. S55(1) of the 1990 Act states that 'development' means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. S57(1) states that planning permission is required for the carrying out of any development of land. The stationing of a caravan is normally taken as constituting a use of the land. The issue therefore is whether the addition of a second caravan would amount to a material change of use.
12. For the purposes of the 1990 Act<sup>4</sup>, a 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. As a LDC was granted in 2002 for the use as a caravan site for one caravan<sup>5</sup>, what has been established, albeit for one caravan, is a caravan site. That is the lawful use of the land.
13. Moreover, unlike a condition on a planning permission, granting a LDC for one caravan on a caravan site does not act as a limitation on the number of caravans which may be stationed.

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015

<sup>2</sup> Appeal references: APP/A6835/A/21/3273043 and APP/W1850/X/22/3295616

<sup>3</sup> In relation to appeal references: APP/R3650/X/16/3161457, APP/R3650/X/21/3267733 and APP/W1850/X/22/3295616

<sup>4</sup> S336 of the 1990 Act states that a 'caravan site' has the meaning given in section 1(4) of the CSCDA 1960

<sup>5</sup> Ref: 02/P/00732

14. Nevertheless, the intensification of a use may amount to a material change of use if and where that causes the character of the use to change in a fundamental way. It was held in *Childs*<sup>6</sup> that a change from four to eight caravans would be material based on the character of the use and impacts on the surroundings. An increase in the number of caravans on a caravan site may therefore be material.
15. Although I saw that the site is relatively small, the stationing of a second caravan would not likely result in such a change in the definable character of the use that it amounts to a material change of use of the land. Indeed, the Council has not sought to make its case on that basis.
16. If, as a result of the stationing of a second caravan, the existing planning unit is subdivided, that could amount to a material change of use. However, that is not the matter before me and for which the LDC is sought.
17. I therefore find that the siting of an additional caravan within the land edged red shown on the plan accompanying the application for residential use would have been lawful on the date of the LDC application on the balance of probabilities.

### **Conclusion**

18. For the reasons given above I conclude that it would not have been well-founded had the Council refused to grant a LDC, and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*Richard S Jones*

INSPECTOR

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<sup>6</sup> *R (oao Childs) v FSS & Test Valley BC* [2005] EWHC 2368 Admin

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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 11 April 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

A Lawful Development Certificate was granted in 2002 for the use as a caravan site for one caravan. The lawful use of the site is therefore a caravan site. The siting of an additional caravan for residential use would not likely result in a such a change in the definable character of the use that it amounts to a material change of use of the land through intensification so as to amount to development requiring planning permission. It is not proposed that existing planning unit is subdivided, which could amount to a material change of use.

Signed

*Richard S Jones*

INSPECTOR

Date: [29 March 2023]

Reference: APP/Y3615/X/22/3300740

## **First Schedule**

The siting of an additional caravan within the land edged red shown on the plan accompanying the application for residential use

## **Second Schedule**

Land at Summer Place Pirbright Road, Normandy, Surrey GU3 2AQ

IMPORTANT NOTES – SEE OVER

## NOTES

This certificate is issued solely for the purpose of Section 191 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 was lawful, on the certified date and, thus, was 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 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.

# Plan

This is the plan referred to in the Lawful Development Certificate dated: [29 March 2023]

by **Richard S Jones BA(Hons), BTP, MRTPI**

**Land at: Summer Place Pirbright Road, Normandy, Surrey GU3 2AQ**

**Reference: APP/Y3615/X/22/3300740**

Scale: Not to Scale

