



Appeal Decision

Site visit made on 13 August 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/L1765/X/23/3318907

Southview Park Homes, Olivers Battery Gardens, Olivers Battery, SO22 4HG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Wally Russell against the decision of Winchester City Council.
 - The application ref 22/00537/LDP, dated 9 March 2022, was refused by notice dated 10 October 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 a caravan site.
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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.

Main Issue

2. Whether the proposed development amounts to a material change of use or not?

Reasons

3. The park homes site lies on the southern edge of a large housing estate known as Oliver's Battery. It protrudes into the open countryside and is bounded to the north by several houses set in spacious grounds, to the east by two fields with further countryside beyond, to the south by a recreation ground and to the west by the housing estate. It is accessed by an estate road, Oliver's Battery Gardens that leads into the estate and consists of 35 mobile homes.
4. The land in question lies beyond the current internal road that marks the edge of the mobile home area and forms a strip of grass and ornamental planting between the mobile homes and the boundary of the park home site. It is separated from the 2 fields beyond by a well-maintained line of trees and bushes.
5. The use of the land would extend the built-up area of the park home site into the countryside that is also part of a settlement gap between Winchester and Compton. However, the Council accept that by the terms of the original grant of planning permission, back in the 1960s and a more recent LDC from 2021 the land is part of the same planning unit as the park site and can therefore be lawfully used for the stationing of mobile homes. Therefore the only issue is whether using the land for 8 mobile homes would amount to a material change of use by way of intensification.

6. For the intensification to amount to a material change of use there has to be a material change in the definable character of the land. In this case, the site as a whole is already used as a park homes site with 35 mobile homes on it, with traffic to and from the site, and a certain amount of noise and disturbance. A bit more of the same would not change the character of the land. The extra impacts have to be such that a reasonable viewer would be able to say, "what is happening here now is quite different from what was happening before". Various decision letters have been provided where an increase in the number of caravans, proportionally greater than the one in this appeal were not considered to amount to a material change of use. My instinctive reaction is that an increase of 23% would fall short of making a definable change in the character of the land.
7. Nevertheless, each case needs to be considered on its merits. In this case the Council argue the strip of land in question is currently open and provides a buffer between the park homes and the fields beyond. This would be lost and the land would be urbanised and reduce the settlement gap. All of this is true, but the actual impact is fairly small. The park home site is clearly delineated from the fields beyond by the line of trees and bushes and this would be unaffected. One of the fields beyond the site is used as a Caravan Club site for rallies and I saw it was occupied by a number of widely spread-out caravans. This large field also acts as a buffer between the park home site and the open countryside beyond so the loss of the appeal strip of land would have little impact.
8. I do not think the current site has an organic feel which would contrast with the proposed mobile home siting on the appeal land, once established there would be little difference between the two. The amount of extra traffic would not be material, especially its impact on the junction with the A3090 which serves the wider housing estate, where the increase would be marginal. Several rights of way run near the appeal site but views of the site are limited by trees and the existing mobile homes. A single mobile home would be sited closer to the boundary of the adjacent dwellings, but there is still considerable space between them and this would have little impact.
9. Taking all this together, I do not think that siting 8 mobile homes on the land would cause a definable change to its character and I shall issue the LDC as requested.

Other Matters

10. The Council have asked for an informative to be added concerning nutrient mitigation. However, this is only relevant where planning permission has been granted or deemed to be granted by the GPDO. The point of an LDC application is to confirm that planning permission is not required so such an informative is unnecessary.

Simon Hand

INSPECTOR

Plan

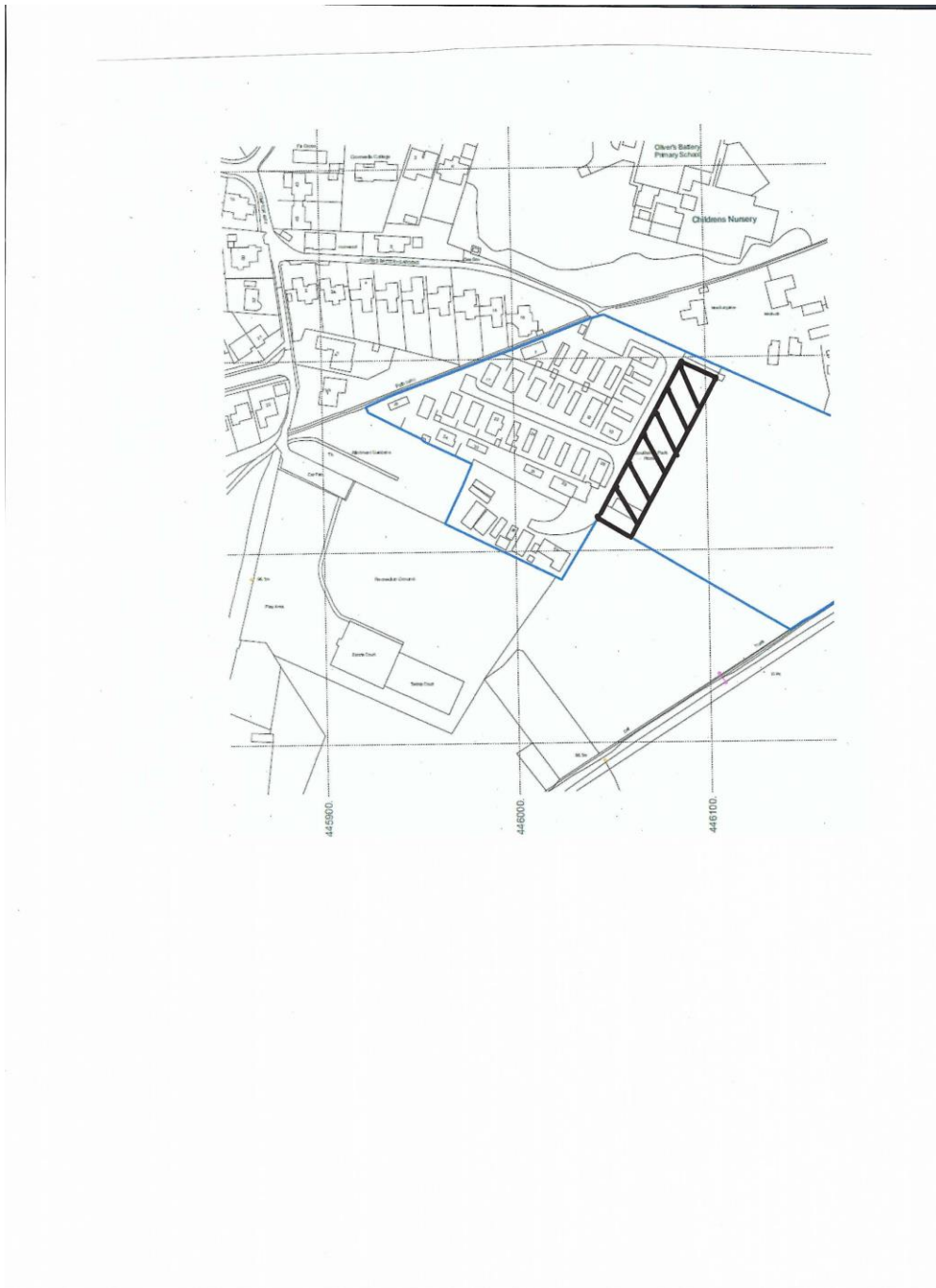
This is the plan referred to in the Lawful Development Certificate dated: 28 August 2024

by Simon Hand MA

Land at: Southview Park Homes, Olivers Battery Gardens, Olivers Battery, SO22 4HG

Reference: APP/L1765/X/23/3318907

Scale: Not to Scale



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

IT IS HEREBY CERTIFIED that on 9 March 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched 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; the use would not amount to a material change of use.

Signed

Simon Hand

Inspector

Date: 28 August 2024

Reference: APP/L1765/X/23/3318907

First Schedule

The use of the land for the stationing of 8 mobile homes for residential purposes.

Second Schedule

The land hatched in black to the rear of Southview Park Homes, Olivers Battery Gardens, Olivers Battery, SO22 4HG

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 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.