

Appeal Decision

Site visit made on 10 September 2024

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

APP/Y3425/X/23/3330907

Downside, Garshall Green Road, Garshall Green, Stafford ST18 0EP

- 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 the decision of Stafford Borough Council to refuse to grant a certificate of lawful use or development.
- The appeal was made by Mr John Beard.
- The application, reference 23/37689LDCPP, registered on 19 June 2023, was refused on 2 August 2023.
- The application was made under section 192(1)(a) of the Act of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of development is sought is for the increase from 1 mobile home to 3 mobile homes.

Summary of Decision: A certificate of lawfulness is not issued.

Appeal site

1. The approximately 50m x 50m appeal site is an area of rough and unkempt grassland on the eastern side of Garshall Green Road in the small scattered settlement of Garshall Green. I saw the derelict remains of what I understand was a residential caravan on the land, its roof now at ground level, the only recognisable remains of a caravan or mobile home.
2. The Council granted a Certificate of Lawful Development on 31 August 2018, ref: 18/28838/LDCP. It stated that on 4 July 2018 the application site had been used for the siting of a residential caravan for a period in excess of 40 years and the replacement of the existing caravan with a twin unit caravan would not amount to development. It would therefore be lawful.

Appellant's proposal

3. The Appellant, Mr John Beard, wishes to add a further 2 caravans for residential use on the site. If I find that project to be lawful, 3 residential caravans could be sited on Mr Beard's land.

Considerations

4. The Council's reason for refusing to issue a certificate of lawfulness said Mr Beard's proposal would result in a material change of use of the land. The addition of 2 more caravans used for residential purposes would constitute development under the terms set out in s.55(1) of the Town and Country Planning Act 1990, (the Act).

5. Section 55 of the Act headed Meaning of “development” and “new development” at (1) says: *‘Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building,, or the making of any material change in the use of any buildings or other land.’.*
6. A proposal simply to increase the scale at which a use operates is unlikely by itself to amount to a material change of use. Rather, what needs to be considered is whether the proposed increase in scale would change the character of the land and its use sufficiently for it to be concluded there is a material difference between the existing use and the proposed use. That is here, whether a material change of use would be caused by adding another 2 residential caravans to the one which could lawfully replace the ruin unit on the site.
7. In the case of *R (oao Childs) v FSS & Test Valley BC [2005] EWHC 2368* (Admin); [2006] JPL 1326, (Childs), it was held that a simple increase in the number of caravans may involve a material change of use. In Childs, Goudie J said: *‘In considering whether there was a material change in that use, I do not consider that it can be said that a change in the number, however great, is incapable of amounting to a material change of use, whatever the position might have been if the 2003 certificate had been silent as to number.’.* In present instance, the 18/28838/LDCP certificate of lawful use, (para. 2 above), states that the application site had been used for the siting of a residential caravan for a period in excess of 40 years and replacement of the existing caravan with a twin unit caravan would not comprise development and would be lawful. The 18/28838/LDCP certificate does not confer a lawful use of the land as a residential caravan site for more than one unit.
8. In its current neglected state, the appeal site with the remains of what was said to have been a mobile home, does not look like land used for residential purposes. The introduction of 3 residential caravans and all associated domestic accoutrements to the land would produce a dramatic change in its character and appearance; clearly, in my view, amounting to a material change of its use. As the Council said, the application proposal would change the 0.1ha site from unkempt land with the almost unrecognisable remains of a mobile home yet capable of lawfully accommodating a single household to a fully utilised site containing 3 mobile homes and used by their associated 3 households.
9. One mobile home could fit reasonably well into this predominantly rural location, not unduly out of character with the few houses and their curtilages that comprise Garshall Green. However, use of the small site at Downside for the stationing of 2 more residential caravans would, in my view, also amount to a material change in the character of the use of the land. Three residential caravans and their associated amenity and parking spaces would fully occupy the land. Mr Beard’s land would look more akin to a mobile homes’ site than a single household detached home and garden. Three mobile homes would dominate and cover much more of the otherwise mostly open nature of the site. A probable threefold increase in noise and site activity would arise, as would the volume of vehicular traffic to and

from the site. Such an increase in intensity of use and perceived development of the application land would be materially different in character to that arising from its lawful use. The site's substantially more intense use by 3 mobile homes and their occupants would result in loss of much of its rural character, replaced by one of a rather more urban nature.

10. I consider that the Council were right to conclude that the application scheme would amount to a material change of use of the land that would constitute development under s.55(1) of the 1990 Act.

FORMAL DECISION

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawfulness for the increase from 1 mobile home to 3 mobile homes on land at Downside, Garshall Green Road, Garshall Green, Stafford ST18 0EP was well-founded and that the appeal should not succeed. I exercise the powers transferred to me under s.195(2) of the 1990 Act as amended.

John Whalley

INSPECTOR