



Appeal Decision

Site visit made on 26 November 2024

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/K1128/X/23/3319601

land at Coldharbour Cross , Loddiswell, Kingsbridge TQ7 4EA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs F Eriksson against the decision of South Hams District Council.
 - The application ref 2386/22/CLP, dated 7 July 2022, was refused by notice dated 24 February 2023.
 - 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 proposed use of the land for the stationing of four additional caravans.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description on the application form referred to a proposed 6 additional caravans. I have not been provided with a copy of any agreement to reducing the number of caravans, but the appellant has used the reduction in numbers to 4 on the appeal form. I will proceed on that basis too.
3. When I carried out my site visit, there were 6 touring caravans on the appeal site. The application was submitted on a Council form for "a Lawful Development Certificate for a Proposed Use or Development." Furthermore, it is declared on the form that the proposal has not been started. I will therefore consider the appeal on the basis of the documents submitted with the application as a proposal. The type of caravans already on the site are not necessarily what is proposed.

Main Issue

4. The main issue is whether the Council's decision to refuse the LDC was well founded, with particular reference to whether the proposed use would involve the making of a material change in the use of the land.

Reasons

5. The appeal site is part of a large field accessed from the road leading from Coldharbour Cross. The road runs along the north of the site and the boundary on that side is primarily formed by a substantial high, growing hedge. The boundary along the south-western and southern side is a similar but with a less densely vegetated hedge and there is some fencing. The site does not cover

the entire larger field that is bounded by these hedges and there is no formal boundary between the appeal site and the land outside of the appeal site, further uphill to the east.

6. The red-line shown on the plan submitted with the application is the same as was included on the previous LDC approved for the site, on 22 March 2022, which confirmed that the existing use of the land for siting of 1 residential caravan unit would be lawful (0756/21/CLE). The historic evidence submitted with that previous application is not before me. Section 191(6) of the Act states that the lawfulness of any use for which a certificate is in force shall be conclusively presumed. What can be ascertained from the face of that previous LDC is that it is lawful to use the land for the siting of one residential caravan unit. The reasoning on the LDC also confirms that at that time, the caravan had been used as a single unit of residential accommodation.
7. The stationing of caravans on land is not in itself development within the meaning of s55 of the Act and it is the purpose of the caravans which relates to what use the land is being put to. It is not explicit on the current application form or within the statement that supported it, what purpose the proposed caravans would be put to. It is clear however within the context of how both main parties have considered the proposal, particularly by the reference back to the existing LDC, that the proposal would involve use of the additional caravans for residential occupation.
8. Section 29 of the Caravans Sites and Control of Development Act 1960 (CSCD Act) defines a caravan as 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). In addition, s13 of the Caravan Sites Act 1968 provides size limitations for a twin-unit caravan. Within these definitions, caravans can come in various forms, sizes and ways in which they are transported as well as in how they are occupied as well as their permanence. These variations can affect how the use is perceived within and outside of the site.
9. The Council has referred to the information that resulted in their decision previously to approve the existing LDC. That decision has not explicitly qualified the character of the site or the type of caravan that resulted in the issuing of the certificate. It is necessary to consider whether the increasing in the number of caravans from 1 to 5 would reach a point where it would give rise to such materially different planning circumstances that, as a matter of fact and degree, would result in a change in the definable character of the use.
10. The caravan to which the existing LDC relates was pointed out to me at my site visit. This is a large touring caravan that is positioned within a central part of the site. The caravan is within an area which has been partially fenced-off from the remainder of the site but that area can be easily accessed because there is no fencing along one side. Adjacent to the caravan, there are some domestic items such as garden chairs, some pallets which appear to be used like decking and some plant-pots. There appear to be remnants as well from agricultural use of the land. Close to the access into the field there is a porta-loo, a bench and at the time of my visit 2 small touring caravans. The field otherwise has a rough grassed surface which has a pastoral rather than domesticated character.

11. At the time of my visit there were other touring caravans on the site but I have no information about their use and they are not part of this proposal for reasons I have set out above. I have to consider the proposal more generally and what I saw was a mere snapshot in time. Apart from the caravans and buildings on the nearby site to the south, this is a very rural area and the appeal site at the moment is reflective of that informal rural character. Caravans on that adjoining site are very noticeable particularly given that boundary hedge trees were not in leaf at the time of my visit in the mid-winter. Even though that site is separate from the appeal site it demonstrates the significant visual effects of caravan sites with multiple units.
12. The existing LDC includes no descriptive indications about the nature of the occupancy or the type of caravan that could be used on the site now. There are also no parameters specified within what is proposed other than the numbers of caravans. What is being applied for could therefore vary considerably. If approved, the site could potentially be used by tourers towed behind cars entering and leaving the site regularly by holiday makers. It could involve tourers stationed permanently as full-time homes. It could be static units brought in on the back of lorries but retained on site on a more permanent basis. It could also be a mix of these.
13. The proposal could lead to the potential for 5 caravans occupied by families or other groups of people in various ways. The effects within the site could include the increase in ephemeral items similar to some of what I saw. This could also lead to other things being brought onto the site like benches, chairs barbecues, children's play equipment. There would be further vehicles of the occupants of the 5 caravans. An increase in numbers of caravans in these ways would be noticeable from outside of the site.
14. If occupation were permanent, it would be likely to bring about permanent as well ephemeral changes. It is also frequently the case in my experience that gardens are established around caravans whether occupied permanently or on a seasonal basis. Generally, there can be a formalisation to the appearance of caravan sites including paths, manicured lawns and other physical manifestations. Such formalisation can sometimes be due to the requirements of other legislation such as the caravan sites licensing regime. This establishment of a residential enclave would be in sharp contrast with the current informality of the pastoral character of the site.

Conclusions

15. The proposal would therefore result in definable changes to the character of the site. From the information available those would relate to additional visual effects in a sensitive rural area and the increased comings and goings of vehicles which could also be noticeable by users of the nearby roads. For the reasons given above, I conclude that the Council's refusal to grant a LDC in respect of the use of the land for 4 additional caravans, was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in s195(3) of the Act as amended.

Andy Harwood

INSPECTOR