



Appeal Decision

Site visit made on 10 December 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2024

Appeal Ref: APP/L3815/X/24/3350465

Beech Farm, Roundstreet Common, Loxwood, West Sussex RH14 0AN

- 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 J Harris against the decision of Chichester District Council.
 - The application ref LX/23/00428/ELD, dated 17 February 2023, was refused by notice dated 7 May 2024.
 - The application was made under section 191(1) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is for operational development comprising the laying of hardstanding for use as parking area, siting of portacabin for use as toilet facilities, and erection of building used as observers stand relating to outdoor sandschool, alongside the continued material change of use of buildings and land for equestrian 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 existing use which is found to be lawful.

Preliminary Matters

2. Having reviewed the appeal submissions, the Council confirm they consider the siting of the portacabin for use as toilet facilities, the retention of the building used as an observers stand and the continued material change of use of buildings and land for equestrian use to be lawful. I find no reason to conclude otherwise. The only matter remaining in dispute is the extent of the lawful hardstanding used for parking. A drawing was received 29 November 2024 indicating the area of hardstanding the Council considers is lawful.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

4. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events

less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.

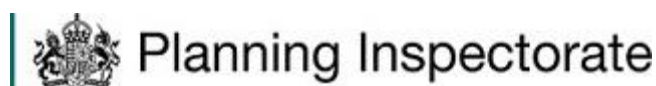
5. The aerial photographs of the site, dated between January 2001 and July 2022 show the hardstanding area in various states of condition. Prior to 2018, the area seems to be very informal, with few vehicles parked on it and it not appearing to be uniformly covered with stone, with patches of vegetation around the perimeter of the area. The 2012 and 2013 aerial photographs show what appears to be material covering a large part of the top half of the area, but it is not clear what this is. The 2017 photograph shows patches of vegetation around the perimeter of the site. These patches remain through to 2021 and it is only in the 2022 photograph that the whole area, up to the perimeter fencing is covered in what appears to be the gravel that is currently in situ. Therefore, the aerial photographs do not support the argument that the whole of the area has been laid as a hardstanding for four or more years.
6. Many of the statutory declarations in support of the appeal refer to the hardstanding area and it being in situ for more than four years. However, none of them refer to the extent of the hardstanding.
7. I find therefore, on the balance of probabilities, the evidence before me does not indicate the hardstanding has been laid to the full extent the appellant states for in excess of four years. Nevertheless, it has been satisfactorily demonstrated that it is lawful to the extent as indicated on the drawing submitted 29 November 2024, which appears to match the extent as indicated on the June 2018 aerial photograph.

Conclusion

8. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development with regard to operational development comprising the laying of hardstanding for use as parking area, siting of portacabin for use as toilet facilities, and erection of building used as observers stand relating to outdoor sandschool, alongside the continued material change of use of buildings and land for equestrian use is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR



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 17 February 2023 the use and operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probabilities, the operational development comprising the laying of hardstanding for use as parking area (hatched in black on the plan attached to this certificate), siting of portacabin for use as toilet facilities, and erection of building used as observers stand relating to outdoor sandschool, alongside the continued material change of use of buildings and land for equestrian use took place in excess of four years (operational development) and ten (material change of use) years prior to the date of the certificate of lawful use or development application. The use then continued up to the date of the certificate of lawful use or development application.

Signed

A Walker

Inspector

Date: 19 December 2024

Reference: APP/L3815/X/24/3350465

First Schedule

Operational development comprising the laying of hardstanding for use as parking area (hatched in black on the plan attached to this certificate), siting of portacabin for use as toilet facilities, and erection of building used as observers stand relating to outdoor sandschool, alongside the continued material change of use of buildings and land for equestrian use.

Second Schedule

Land at Beech Farm, Roundstreet Common, Loxwood, West Sussex RH14 0AN

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: 19 December 2024

by A Walker

Land at: Land at Beech Farm, Roundstreet Common, Loxwood, West Sussex RH14 0AN

Reference: APP/L3815/X/24/3350465

Scale: Not to Scale

