



Appeal Decision

Site visit made on 2 April 2025

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2025

Appeal Ref: APP/K1128/X/24/3346253

Green Park Farm, Land south of Higher Yabbacombe Farm, Aveton Gifford, Devon TQ7 4EN

- 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 Alan Crawford against the decision of South Hams District Council.
 - The application ref 0594/24/CLE, dated 20 February 2024, was refused by notice dated 9 April 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is Shepherds hut (caravan) currently on site used ancillary to the forestry use of the land.
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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.

Main Issue

2. The Main Issue is whether the Council's decision to refuse to issue a certificate of lawfulness was well-founded.

Reasons

3. When seeking a certificate of lawful use, it is for the Appellant to make his case on the balance of probability.
4. The land on which the shepherds' hut has been sited is a 4.85 ha field in a rural location. This field is the relevant planning unit.
5. The hut has the appearance of a small, corrugated shed that is set on a frame with four wheels. It is sited on a levelled area towards the centre of the field. Although I did not enter the hut, I could see the majority of its interior through its windows and doors. It was divided into two spaces. The larger of the two was open, and had a small kitchen area, with a sink and cupboards in one corner, and a few tools. I could not see into the smaller room, but from the drainage pipes under the hut it would appear that this housed a toilet, referred to by the Appellant in his statement of case.
6. Development is defined in s55(1) of the 1990 Act as 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".
7. No case has been made that the siting of the shepherds' hut has involved engineering, mining or other operations, and both parties state that it is not a

building. They agree that the hut is a caravan, which is to say a “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”, as defined in s29(1) in the Caravan Sites and Control of Development Act 1960 (‘caravan Act’). I, too, find this to be the case.

8. As the siting of a caravan amounts to the use of the land on which it is positioned, the question to be asked here is whether the siting of the hut would amount to a material change of use of the land. If so, this would amount to development under s55(1) of the 1990 Act, leading to the question of whether this would be allowed under the terms of the caravan Act or any development order. If not, its siting would not be development.
9. At my site visit, I saw that a large number of trees had been planted on the field. In the statement that supported the application for a certificate, the Appellant said that the number planted was, at that time, 4,500, with a further 300-500 to be planted by the Devon Wildlife Trust. These were whips protected by plastic sleeves.
10. The Appellant’s submission is that the land is being put to a forestry use. The Council agrees that, whilst there is some scepticism as to whether what is on the land is a forest, it agrees that the activities being undertake can be reasonably be held to be forestry.
11. The Appellant sets out that the work to manage the trees, which includes thinning, harvesting, cutting and re-staking blown-down trees, as well as maintenance of boundaries, is an “intensive and hands-on” experience. A grounds’ manager and volunteers visit the land regularly to carry out the work.
12. In the light of the evidence before me, including that of my site visit, I find that the land is used for forestry purposes.
13. The Appellant says that the shepherds’ hut was brought onto the land to provide facilities to the grounds’ manager and volunteer when they are working on it. It has water, a composting toilet, and an electricity connection. Thus, it provides shelter, heating, a place to heat and eat food, and for the charging of power tools. No evidence has been put forward to counter this. Thus, as a matter of fact and degree, I find that its use is ancillary to use of the land for forestry purposes, and that there has been no material change of use of the land.
14. Therefore, the siting of the caravan does not amount to development that requires planning permission. Its siting is lawful.

Conclusion

15. For the reasons given above I conclude that the Council’s refusal to grant a certificate of lawful use or development in respect of Shepherds hut (caravan) for purposes ancillary to the forestry use of the land is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Curnow

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 20 February 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The siting of the shepherds' hut would not require planning permission as it would not be development, as defined in section 55 of the Town and Country Planning Act 1990, as amended.

Signed

R Curnow

Inspector

Date 6 May 2025

Reference: APP/K1128/X/24/3346253

First Schedule

Shepherds hut (caravan) currently on site used ancillary to the forestry use of the land.

Second Schedule

Green Park Farm, Land south of Higher Yabbacombe Farm, Aveton Gifford,
Devon TQ7 4EN

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 6 May 2025

by **Roy Curnow MA BSc(Hons) DipTP MRTPI**

Land at: Green Park Farm, Land south of Higher Yabbacombe Farm, Aveton Gifford, Devon TQ7 4EN

Reference: APP/K1128/X/24/3346253

Scale: Not to scale

