



Appeal Decision

Site visit made on 6 May 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Appeal Ref: APP/W1850/X/24/3354519

The Stables, Weggs Pony Club, Ailey Lane, Kinnersley, Herefordshire HR3 6NY

- 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 Mrs Deborah Mitchell on behalf of Weggs Stud against the decision of Herefordshire Council.
 - The application ref 241971, dated 1 August 2024, was refused by notice dated 24 October 2024.
 - 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 siting of a caravan for ancillary use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The LDC application describes the proposed use of the caravan as 'ancillary use'. The appellant's supporting statement elaborates on this further by stating the LDC application was sought for 'the siting of an ancillary residential caravan, within the garden grounds of Weggs Stud'. However, the appellant's appeal statement somewhat contradicts this by stating the 'mobile home would be ancillary to commercial buildings', suggesting it would be used for a commercial use ancillary to the existing commercial buildings.
3. For clarity, I have determined the appeal on the basis that the proposed caravan would be used for ancillary residential accommodation in association with Weggs Stud as it is on this basis that the LDC application was made and on which the Council subsequently determined the application.

Main Issue

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

Reasons

5. An application under S192(1)(a) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any proposed use of buildings or other land would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.

6. Planning permission is required for the carrying out of any development of land¹. “Development,” means 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 land².
7. There is no dispute between the parties that the proposal would meet the definition of a caravan, as set out in The Caravan Sites and Control of Development Act 1960. The crux of the matter is whether the proposal would result in a material change in the use of the land.
8. In order to establish whether a material change of use would occur, it is first necessary to ascertain what the planning unit is and what its primary use is. The planning unit is the unit of occupation unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. There are three broad categories of distinction: 1) a single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary; 2) a single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and 3) the unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In such a case, each area used for a different main purpose, together with its incidental activities, ought to be considered as a separate planning unit.
9. The appeal site forms part of Weggs Pony Club (also known as Weggs Stud), which comprises a large number of post and rail/electric fenced paddocks; a collection of stables and outbuildings; a timber dwelling; and areas of hardstanding.
10. The existing dwelling is nestled between a collection of outbuildings on either side. To the front and rear of the dwelling is a lawned garden, demarcated by a low timber fence. In front of this is a large hardstanding area used for parking. To the north of the hardstanding area are several paddocks.
11. The wider site is in single occupation. Although there are two uses taking place, ie equestrian and residential, it is clear there is a physical and functional link between the two, with the appellant living in the dwelling and operating the stud farm/pony club, akin to a working farm and its associated farmhouse. Accordingly, on the evidence before me, I consider the overall site forms a single planning unit that is in a mixed use comprising equestrian and residential use.
12. The parties appear to focus on whether or not the caravan would be sited within the curtilage of the dwelling. However, that is not strictly the test. Regardless of whether it is part of the curtilage of a dwelling, providing the land on which the caravan sits is in lawful residential use and the caravan is used ancillary to the residential use then it would not amount to development and therefore would be lawful.
13. The proposed site of the caravan already contains a static caravan. I have taken it that this is the caravan that is the subject of the proposal. At the time of my site visit, the caravan was being used for the storage of domestic paraphernalia. The

¹ S57 of the Town and Country Planning Act 1990

² S55 of the Town and Country Planning Act 1990

land on which the caravan sits is bounded on all sides by a fence and/or hedge, with an electric fence across the gateway. Notwithstanding the caravan itself, the land has the appearance of a small paddock, clearly associated with the surrounding equestrian use rather than the nearby dwelling. Nevertheless, as it forms part of the same planning unit as the dwelling, it is in a mixed use comprising equestrian and residential.

14. The existing residential use is well-contained within the fenced enclosure around the dwelling and its immediate garden area. The appeal site is far detached from this, on the opposite side of the hardstanding area. There is little evidence before me as to how the caravan would be used ancillary to the existing dwelling. It is claimed 'provision of meals, laundry facilities, etc. will be shared', so it is likely that the caravan would be occupied. However, there is no evidence by whom.
15. Despite the appellant's contention that the caravan would not have its own curtilage, the land on which it would be sited has a clearly defined enclosure separating it from not only the existing dwelling but also the surrounding paddocks and hardstanding. Therefore, it is likely that this would form a curtilage to the caravan all of its own. At the time of my site visit there was outdoor seating and a chiminea adjacent to the caravan and two cars parked in front of it, within the fenced enclosure, indicating that the land could be used as curtilage.
16. As a consequence, by reason of it being sited within its own enclosure, the degree of physical separation from the existing dwelling and the lack of evidence regarding how it would be used, I am not satisfied that the caravan would be used ancillary to the existing dwelling. As such, it would likely result in a material change of use of the land to a separate residential use, creating a new planning unit.
17. I find therefore, on the evidence before me, it has not been demonstrated that, on the balance of probabilities, the siting of a caravan for ancillary residential accommodation in association with Weggs Stud would be lawful.

Conclusion

18. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR