



Appeal Decision

Site visit made on 24 June 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/C3620/X/25/3363799

Candleford, Stan Hill, Charlwood, Surrey RH6 0EP

- 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 Paul Tyson-Davis against the decision of Mole Valley District Council.
 - The application ref MO/2025/0043, dated 13 January 2025, was refused by notice dated 10 March 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) ("the Act").
 - The use for which a certificate of lawful use or development is sought is use of the land for the parking of motor vehicles.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse the LDC application was well founded.

Reasons

3. LDC Appeals are confined to the narrow remit of determining whether the Council's refusal was well founded. The burden of proof is with the appellant, to demonstrate, on the balance of probabilities, that the proposed development would have been lawful on the date the application was made ("the relevant date"). The planning merits are not for consideration.
4. Under Section 191(2) of the Act operations are lawful if no enforcement action may be taken in respect of them and they do not constitute a contravention of the requirements of any enforcement notice then in force.
5. I have not seen evidence of any enforcement notice in force. The primary consideration is therefore whether enforcement action could have been taken against use of the land for the parking of motor vehicles on the relevant date.
6. The Land comprises a dwelling and outbuildings, hard surfaced areas and land laid to grass located within the countryside and the Metropolitan Green Belt.
7. On 06 June 2024 a LDC was issued by the Council for the existing use of the Land for "mixed use for the storage and parking of horseboxes, in addition to the dwelling" ("the 2024 LDC"). Section 191(6) of the Act makes clear that the lawfulness of any use for which a certificate is in force shall be conclusively presumed.

8. The appellant's first argument is that the parking of motor vehicles is in the same use class as the parking of horseboxes. But for the purposes of the Use Classes Order¹ each mixed use is *sui generis*, in a class of its own, and parking is also generally considered to be a *sui generis* use, outside the use classes set out in the Order. As no other use, or mix of uses, is included in a *sui generis* use, any alteration to the mix or nature of the use(s) results in a use in a different class, even if that is also a *sui generis* use.
9. The appellant seeks support from an appeal decision where it was found a storage use was within use Class B8, as was that particular use for the open storage of motor vehicles. However, that case did not relate to a mixed use, or to the parking of motor vehicles. The circumstances of that appeal are distinctly different to those before me, and it does not follow that use for the parking of motor vehicles is the same as use for the storage and parking of horseboxes in addition to the dwelling.
10. The appellant's second argument is that a change of use to the parking of motor vehicles would not necessarily constitute a material change. He refers to the absence of any maximum number of horse boxes which may be stored and parked on the Land lawfully in relation to the 2024 LDC, and to the fact that the horse boxes referred to in the certificate are motor vehicles. He also states that the cessation of one element of a mixed use does not in itself amount to a material change.
11. Nevertheless, the parking of motor vehicles is a broad term which could encompass uses of a wide and varying nature at different intensities of operation. In the case of cars, for example, a significant number could be parked and there could be a substantial number of trips to and from the land. In the case of articulated heavy goods vehicles, the nature and effects would also be different. Even considering these limited examples, it is clear that the broad use sought by the appellant is materially different to the very specific lawful use for the storage and parking of horseboxes in addition to the dwelling.
12. As a matter of fact and degree, the proposed use would therefore have constituted a material change of use of the Land. Although no enforcement notice had been issued against it, planning permission would have been required for the use and had not been granted for it. Enforcement action could therefore have been taken against use of the land for the parking of motor vehicles on the relevant date.
13. The appellant has therefore not demonstrated, on the balance of probabilities, that the proposed use would be lawful.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of the land for the parking of motor vehicles 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).

Peter White

INSPECTOR

¹ The Town and Country Planning (Use Classes) Order 1987