



Appeal Decision

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Appeal Ref: APP/L2630/X/23/3315238

Furze Green Meadow, Harleston Road, Rushall, Norfolk IP21 4RT

- 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 Lisa Buck against the decision of South Norfolk District Council.
 - The application Ref 2022/1571, dated 11 August 2022, was refused by notice dated 6 December 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act").
 - The use for which a certificate of lawful use or development is sought is described in the appeal form as for existing use of mobile home for residential use.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Documentary information includes various supporting statements from interested parties submitted during the application and appeal stage, which I will consider. However, the appeal turns on the facts of the case and relevant planning law and whether the specific matter is lawful as defined by the 1990 Act. Planning merits, including personal circumstances and discussions between officers and the appellant, are not relevant at any stage in this process.

Inspector's reasons

3. The onus of proof is firmly upon the appellant whose own evidence does not need to be corroborated by independent evidence to be accepted. 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 refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous on the balance of probability. For immunity to be achieved, the evidence presented needs to show that the residential caravan site facilitated by the stationing of the mobile home began on or before the relevant date, which is 11 August 2012, and continued thereafter for a period of 10 years without significant interruption.
4. The area outlined red in the revised LDC site plan shows the extent of the land in residential use. The mobile home is in the northwest corner and the plans label land immediately around and about as garden. Other land is labelled as a meadow and is outlined in blue. The appellant claims that the mobile home was first stationed to the eastern boundary in October 2011. By December the caravan was relocated to its current position and the LDC application site's main residential use instituted before the relevant date.
5. Much is made of the Council's inconclusive enforcement investigation back in 2011. The appellant believes the enforcement officer was aware of the LDC application site's residential

caravan use. To me, the correspondence demonstrates confusion about the purpose of the residential use. Whether a breach of planning control has occurred and is immune due to the passage of time is a matter of law. It is not influenced by if or when the Council investigated an alleged breach of control.

6. It seems highly unlikely that, with professional representation, the appellant would have been led to believe that the closure of the enforcement file and representations made by an individual officer meant that the Council was condoning the existence of the residential caravan site. An analogy might be to suggest that if a Council closes an enforcement file it can no longer reopen that case just because it initially found no breach of planning controls – that clearly is not right. The closure of the initial investigation, said to have been made on the basis that the caravan had been removed, is not sufficient to fetter the proper exercise of the Council's statutory duties under the planning regime.
7. Rushall Lodge is a substantial residential property situated within a large and landscaped plot and the whole property was owned by the appellant's brother. It was in residential use as a single dwellinghouse while the field to its west and north was in agricultural use, although at some point in time it may have been used in connection with the keeping of horses. Nevertheless, the land was originally part of a single unit of occupation in mixed residential and agricultural use. In around 2011, circumstances changed, and the dwelling was converted into holiday accommodation. The appellant's mother relocated, and brother moved abroad. The appellant decided to relocate from London and look after the holiday complex. She maintains that she did not reside in Rushall Lodge because it was being converted and then used for holiday accommodation.
8. As I have already indicated elsewhere, the mobile home was first stationed on the field along the eastern boundary but later relocated to the northwest corner of Furze Meadow Green as it was visible from the adjacent highway. In its current position, it is camouflaged due to heavy vegetation and extensive tree cover. The documentary evidence includes aerial photographs, but these images do not clearly show the mobile home in its current location. One explanation might be the extensive tree cover camouflages the caravan. However, the supporting witness statements do not precisely state when the mobile home was first used for primary residential purposes.
9. The mobile home has the facilities for independent living, and it is physically separate by reason of distance and location. The assertion is that from 2011 the LDC application site was used for residential purposes and the keeping of livestock. However, the evidence is contradictory because it also shows the mobile home was connected to the main dwelling. For example, mains water and electricity were initially taken from Rushall Lodge and a dedicated supply to the caravan was installed in August 2022. Wastewater was and still is collected by tanker.
10. Additionally, the appellant would be available to guests on a 24-hour basis for emergencies: her presence was required between and during the holiday occupancy. The appellant's partner was responsible for general maintenance and repair of the property including the heating systems and the periodic checking of the pool's chemical level. In return for the management of the holiday accommodation, the appellant confirms her brother paid the council tax and allowed the use of Rushall Lodge for correspondence purposes. This kind of informal arrangement continued until Rushall Lodge was separately sold in 2022 and Furze Green Meadow was dedicated to the appellant.

11. The appellant's own evidence casts doubt over the immunity claim. It shows that the LDC application site's residential activity was integral to the use of Rushall Lodge for holiday accommodation. The nature and scale of the residential use was essentially linked to Rushall Lodge's operations. In practice, the character of the residential use was ancillary to the holiday accommodation, because the appellant managed, coordinated and operated Rushall Lodge on behalf of its owner. An analogy might be a large hotel complex where outbuildings are occupied and used by residential staff. Each outbuilding might have its own viable facility for day-to-day living, but their use is essentially and functionally linked to the running of the hotel.
12. Returning to this case, the evidence points in the likelihood that once Rushall Lodge was physically subdivided and separately sold, the LDC application site formed a self-contained planning unit in primary residential use. The appellant kept, and continues to keep, livestock at Furze Green Meadow, but that kind of activity is limited in scale. It seems to me that the definable character of the residential use materially changed from ancillary accommodation to primary once the property had been physically subdivided. That event marked the beginning of a different chapter in the history of the LDC application site.
13. As a matter of fact and degree, I find that a separate residential caravan site use facilitated by the stationing of a mobile home was created in 2022 through the subdivision of the planning unit. The quantum of evidence indicates that the claimed existing use of the mobile home commenced within the last 10 years and cannot therefore be lawful.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of existing use of mobile home for residential use was well-founded albeit for different reasons 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 U Ghafoor

INSPECTOR