



Appeal Decision

Site visit made on 2 September 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 SEPTEMBER 2025

Appeal Ref: APP/W4705/X/24/3354367

Land at Potter Brow Road, Baildon, West Yorkshire, BD17 6BG

- 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 Miss Louise Waller against the decision of City of Bradford Metropolitan District Council.
 - The application ref 24/02899/CLP, dated 7 August 2024, was refused by notice dated 1 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 use of land for a mother and baby woodland play group.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, I make clear that the planning merits of the proposal are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The evidence is that the appellant occupies a property near the appeal land, albeit separated and offset from it by a main road. The Council's evidence, which is not disputed by the appellant, is that the appeal land was purchased by the appellant and a neighbour as an existing woodland and with the purpose of being used as a '*smallholding for keeping hens*'. While I do not have specific details about use of the land as a smallholding for keeping hens, it is of course likely that this would be an agricultural use and hence would not amount to an act of development given section 55(2)(e) of the Act.
4. It is understood that some operational development has since taken place on the land and was the subject of the consideration of an approved retrospective planning application for a log store, mobile poultry housing, pathway repairs, a wildlife pond and site access modification¹.
5. The Council states that while the above planning permission has approved operational development, it has not authorised a material change of use of the land. This is not disputed by the appellant, and, in any event, the evidence is that there is not a specific planning permission in place to use the land for a mother and baby woodland play group. I deal with this matter in more detail below, including whether, as a matter of fact and degree, the proposal would amount to a material

¹ Planning application reference 18/02540/FUL

change of use of the land and hence would amount to an act of development under section 55(1) of the Act requiring planning permission.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether on the date of the LDC application the proposed use of the land for a mother and baby woodland play group would have been lawful if instigated or begun on that date.

Reasons

7. It is proposed that the land would be used one or two half days a week to run outdoor play sessions for up to five parents/carers and babies across one-hour sessions. The proposal does not include the erection of any new buildings or any other new operational development. It is stated that the proposal would include the use of ground sheets/blankets and toys and that they would be removed after each session. Car parking would be provided off road and behind the existing access gate.
8. The LDC application was submitted to the Council based on the proposal operating as a business. The appellant has indicated, as part of the appeal, that she would now like to operate on a voluntary basis rather than as a business. While this is a proposed change to the LDC application, I do not find that there would be any prejudice caused to interested parties from the point of view of me determining the LDC appeal on this basis. This is because the exchange of money is not determinative from the point of view of concluding whether the proposal would amount to a material change of use of the land.
9. While the meaning of 'use' is provided in section 336(1) of the Act, the concept of a material change of use is not defined in statute or statutory instrument. The basic approach is that, for a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
10. The evidence is the land is in private ownership and includes woodland (with a pond), the keeping of hens and a log store which is used by its owners. This is the primary use of the land forming part of one single planning unit.
11. The land does not have a planning permission in place to be used by visiting members of the public in the manner proposed. While my site visit was only a snapshot in time, I was able to experience that the land had a very tranquil and peaceful character. There was a noticeable absence of vehicular and pedestrian comings and goings, or indeed periods of intense human activity, interaction or play on the land.
12. In the context of the above, and even accounting for the proposed use being confined to one or two half days per week, I find that during these days there would be periods of intense vehicular and pedestrian comings and goings and on-site activity leading to an otherwise significant change to the tranquil and peaceful character of the activities that can currently and lawfully take place on the appeal site. In my judgement, the proposal would result in increased noise and activity in the area from children playing and parents supervising during these times, coupled with vehicles manoeuvring and parking.

13. Moreover, and while blankets, sheets and toys would be removed after each session, when in use they would have the potential to significantly change the essentially rural character and appearance of the land. It is of course possible that back-to-back hourly sessions could take place for each half day and hence such blankets, sheets and toys may be on the land for prolonged periods of time.
14. For the reasons outlined above, I conclude, as a matter of fact and degree, that the proposal would result in a significant difference in the character of the activities from what has gone on previously and hence would constitute a material change of use of the land for which planning permission would be required. I reach this conclusion whether the proposal was to operate on a business or voluntary basis.

Conclusion

15. 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 land for a mother and baby woodland play group 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).

D Hartley

INSPECTOR