



Appeal Decision

Site visit made on 6 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 25th September 2025

Appeal Ref: APP/W1525/X/23/3321954

Land west of Crowsheath Farm, Hawkswood Road, Downham CM11 1JT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Michael Anis on behalf of Crowsheath Farm Country Park Limited against the decision of Chelmsford City Council.
 - The application Ref 22/00231/CLEUD, dated 2 February 2022, was refused in part by notice dated 31 May 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 mixed-use fishery, caravan and camping site and for purposes ancillary to those uses.
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Decision

1. The appeal is dismissed.

Reasons

2. 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.
3. Section 193(4) of the 1990 Act makes clear that a LDC may be granted in respect of the whole or any part of the land specified in the application. Furthermore, where the application details two or more uses, the certificate can relate to all or just some of those uses. In exercising its statutory powers, the Council effectively issued a split decision, amending the description of the existing use. The scope of this appeal is confined to reviewing the Council's decision in this context. The Secretary of State must dismiss the appeal if satisfied, on the evidence now available and on the balance of probabilities, that the Council's refusal was well-founded and must allow the appeal if found to the contrary.
4. The nub appellant's argument is that the existing use of land outlined in red on the site plan ref 1646-0001-02, which, for convenient shorthand I will refer to as the LDC site, is described as follows: for a mixed-use fishery, caravan and camping site and for purposes ancillary to those uses. The Council issued a LDC for use of land for fishery and ancillary camping purposes. Having carefully reviewed, considered and analysed both sides of the argument, which is supported by voluminous documentary evidence including sworn testimony, the main issue is a simple one: namely, was the decision to allow in part the LDC well-founded.

5. For land-use purposes, uses and operations are lawful at any time if no enforcement action may then be taken in respect of them, for example because the time for enforcement action has expired or for any other reason, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no enforcement notice in force.
6. For immunity to be achieved, the evidence presented needs to show that the existing mixed use described in the LDC application is immune from enforcement action at the date of application. That is the use was instituted on or before 2 February 2012 and continued thereafter for a period of 10 years without significant interruption.
7. In that context, planning merits of the development combined with the site's location are irrelevant. Also, of little, if any, influence is the detailed explanation about the unauthorised development alleged: as I have already said elsewhere, there is no enforcement notice in place for the mixed use claimed. The lack of clarity surrounding land ownership, or title, is of little relevance.
8. The starting point for this assessment is the identification of the planning unit. However, it is unnecessary to overcomplicate matters in this case. The LDC site is clearly delineated, making it the appropriate physical area for assessing whether any material change of use has occurred. The general rule is that materiality must be considered in respect of the entire site, and there is no need to artificially subdivide it into smaller, self-contained units. As a matter of fact and degree, the area outlined in red on the LDC site plan forms a single planning unit. The core question is whether the existing mixed use, as claimed by the appellant, is lawful.
9. Upon careful consideration, none of the testimony or supporting documentary evidence, including references to websites, clearly demonstrates that the mixed use of the LDC site was established on or before the relevant date and continued thereafter for any 10-year period. The appellant's documentation includes historic aerial images of the site, while the Council provides images from 2020 to 2022. Some of these depict individual caravans near existing buildings but not around the lakes. There may have been occasional touring caravans on the land for residential purposes, but the evidence does not adequately establish the level, intensity, duration or scale of the mixed fishery, caravan and camping use at the LDC site. While these images provide a snapshot, none supports the claim that the LDC site has been continuously used for caravanning and camping as part of a mixed use.
10. As such, the evidence regarding the claimed mixed use remains unclear and ambiguous. For instance, none of the sworn statements detail the nature, scale or extent of the primary uses on the LDC site on or before the relevant date. Witnesses refer to previous residential caravan site use around the lakes and use of amenities, but their accounts lack detail and specificity. These statements seem to describe sporadic use linked to events or notable occasions. While it is plausible that tourists or visitors may have arrived in caravans for fishing purposes, this appears to be an occasional activity functionally related to the use of the fishing lakes. Overall, the evidence points to camping and caravanning use around the lakes being intermittent and low in scale.
11. Alternatively, any residential caravan site use appears to have been associated with rallies or temporary uses. The evidence indicates that, on average, between 5 and 10 rallies occurred each year, with up to 30 rallies hosting as many as 40 caravans. In my assessment, such activity is not characteristic of a permanent residential caravan and camping site use forming an element or component of the claimed mixed use.

Conclusion

12. For the reasons given above, pulling all the threads together, on the balance of probabilities, I conclude that the evidence presented is sufficient to demonstrate the use of LDC site for purpose of fishery and ancillary camping but not as a mixed fishery, caravan and camping site and for purposes ancillary to those uses. The Council's refusal to grant an LDC in respect of existing use claimed was well-founded and 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