
Appeal Decision

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 6 November 2025

Appeal Ref: APP/G0908/X/24/3337179

Greenacre, Overend Road, Greysouthern, Cockermouth CA13 0UA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Mark Abbott against the decision of Cumberland Council.
 - The application Ref CLDE/2023/0002, dated 24 April 2023, was refused by notice dated 29 September 2023.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the use of the land as a caravan site.
-

Summary Decision: the appeal is dismissed

Procedural matters

1. I am satisfied that the appeal can be determined on the written evidence that is before me. In these circumstances, there is no benefit to be gained from a site visit.

Reasons

2. Section 191(4) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operation or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case shall refuse the application. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made.
3. As submitted, the application subject to this appeal sought to show that the use of the land as a caravan site is lawful. Nothing more and nothing less. No details are provided about the precise number of caravans claimed to have been stationed on the land.

4. The evidence provided in support of the application/appeal is flimsy at best. The appellant has provided a series of aerial photographs taken at random intervals between 2003 and 2023. The photographs dating to 2003 and 2008 were both taken 'out of season' and both show just one caravan stationed on the land. The photograph taken in 2016 is of very poor resolution but appears to show only 3 caravans stationed on the land. The photographs taken in 2018 and 2023 each show no more than six caravans stationed on the land.
5. The appellant has also provided a series of Non-Domestic Rates Bills for consecutive years between March 2013 and March 2023. Although this shows that at least one caravan was stationed the land for a period of 10 consecutive years, that is all that these Rating Bills do show: the description for these bills is in each year for a 'Caravan Pitch and Premises' expressed in the singular. I recognise that this may be just a function of how such bills are worded, but in any event, they do not assist the appellant in demonstrating that the use of land for stationing of more than just one caravan has taken place continuously for a period of ten years.
6. The Council is satisfied that the land has been used a caravan site for the purposes of Class A, Part 5, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, whilst not expressly stated, on my reading of the application subject to this appeal that is not the use that the appellant is seeking to show is lawful. On my reading, whilst the precise number is not stated, the appellant is seeking to show that the land has been used as caravan site in excess of the limitations to which Class A, Part 5, Schedule 2 of the GPDO is subject for over 10 years.
7. Nonetheless, the appellant's evidence falls a long way short of demonstrating, on the balance of probabilities, that the land has been continuously used as caravan site 10 years or more in excess of those limitations. By way of example, only two of the aerial photographs provided by the appellant show more than five caravans stationed on the land (and then only six caravans at most), and there is a period of some five years between those two photographs being taken. There is no evidence before me that shows any caravans being stationed on the land in the intervening period or, for that matter, in the years before and after those dates.
8. There is no requirement for the appellant to show that the use of the land as a caravan site has continued throughout the winter months. Without making any finding in relation to it, I acknowledge that the normal pattern of use of the site *may* be for caravans to be stationed on it during the summer months but not during the winter months (albeit I understand that one caravan is permanently stationed on the land). Neither does the provision of operational development to facilitate the use as a caravan site assist the appellant: there is no evidence before me to show that this facilitating development was used over the required 10-year period.
9. It is settled case law that a use can only become lawful if it continues throughout the relevant immunity period, such that the local planning authority could have taken enforcement action at any time. In this case, there are significant periods of time between the dates on which the aerial photographs were taken. The appellant has not shown with evidence that, on the balance of probability, the local planning authority could have taken enforcement action at

any time during those periods. (even during the time of year when the normal pattern of use would suggest that the use should be taking place).

10. This is a situation where the local planning authority has no evidence of its own to contradict that of the appellant or make his version of events less than probable. However, I find that the appellant's evidence is not sufficiently precise and unambiguous on its own to show, on the balance of probability, that the use of the land as a caravan site in excess of the provisions within Class A, Part 5, Schedule 2 of the GPDO is lawful.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of land as a caravan site at Greenacres, Overend Road, Greysouthern, Cockermouth CA13 0UA 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.

Formal Decision

12. The appeal is dismissed.

Paul Freer

INSPECTOR