



Appeal Decision

Site visit made on 10 June 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/E3335/X/25/3361611

Cornish Farm, Killams Lane, Shoreditch, Taunton, Somerset TA3 7BS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Sovereign Park Homes Estates Ltd against Somerset Council.
 - The application ref 30/24/0024/LEW is dated 21 October 2024.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is “the non-compliance with condition 4 of planning permission 30/99/0028”.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Sovereign Park Homes Estates Ltd against Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description is normally taken from the application form. However, the application form states, “*please refer to supporting statement the condition has been breached for in excess of ten years*”. I have therefore taken the description from the appellant’s appeal form as this best describes what the appellant is seeking.
4. In this type of appeal, the onus of proof is firmly upon the appellant. The relevant test of the evidence on matters such as an LDC application is the balance of probabilities. The planning merits of the use are not relevant, and they are not an issue for me to consider in the context of an appeal under s195. I must examine the factual evidence, the history and planning status of the site in question and apply the relevant law or judicial authority to the circumstances of this case.

Background and Main Issue

5. On 5 June 2000 planning permission¹ (“the 2000 permission”) was granted for the “*Change of use from orchard to caravan site for 25 caravans*” at the appeal site. This permission was subject to a number of conditions, including condition 4 which states:

“*Not more than 25 caravans or tents shall be stationed on the site at any one time*”

¹ Council Reference: 30/1999/028

6. In 2021 an application² seeking a LDC for the “*existing use of the caravan site providing 50 caravan/tent pitches at Cornish Farm, Killams Lane, Shoreditch, Taunton*” was submitted to the Council. The application was refused on 5 May 2022.
7. In late 2022 the appeal site was sold to the current owners, who subsequently submitted a further application for a LDC to the Council in October 2024. Whilst the Council failed to give notice of its decision within the prescribed period, it is clear from the appeal statement and supporting documents that, if a decision had been made, the Council would not have issued an LDC. Given the lack of a decision, the application is deemed to have been refused.
8. Therefore, the main issue is whether or not that deemed refusal is well-founded. This turns on whether the appellant can demonstrate, on the balance of probabilities, that at the time of the application the condition had been breached for a period of at least 10 years.

Reasons

9. The Planning Practice Guidance reflects prior Court judgments. It sets out that an appellant’s own evidence does not need to be corroborated by independent evidence in order 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 dismiss the appeal, provided the appellant’s evidence alone is sufficiently precise and unambiguous.
10. The appellant’s case is that there have been more than 25 caravans or tents stationed on the site at any one time for a continuous period of more than ten years. In particular, the appellant’s case is that the site has provided 50 caravan and tent pitches since March 2005, and that more than 25 of those pitches have been regularly occupied since that date. This includes occasions during the summer months when all the available pitches have been in use.
11. In support of that position, the appellant has provided various documentary evidence including:
 - Statutory declarations from Edward Jones, Lynda Jones (**Appellant’s Appendix 3**), Geoffrey Harper, Ian Norton and Jeffrey Hoare (**Appellant’s Appendix 4**)
 - Entry forms for Cades Camping Site Guide dated 2 June 2008 & 28 May 2013 (**Appellant’s Appendix 5 & 8**)
 - An online review dated July 2008 (**Appellant’s Appendix 6**)
 - Completed form for AA Caravan & Camping Guide 2010 (**Appellant’s Appendix 7**)
 - AA Inspection Sheet dated 6 May 2021 (**Appellant’s Appendix 9**)
 - Screenshots taken from UK Campsites Website (**Appellant’s Appendix 10**)
12. It is not disputed that the site provides 50 pitches, with 25 gravel hardstanding pitches provided broadly in a “U” shape in the centre of the site, with the remaining pitches being grass pitches. It is clear from the submitted evidence that this has

² Council Reference: 30/21/0037/LEW

been the case for a period exceeding ten years and remained the case at the time of my site visit.

13. However, the presence of more than 25 pitches does not in itself represent a breach of condition 4 of the 2000 permission. Whilst condition 4 limits the number of caravans or tents to no more than 25 at any one time, it does not stipulate how many of those must be caravans (or vice versa tents). Consequently, it is entirely reasonable and necessary for there to be 25 hardstanding pitches available in the event that they are all needed for 25 touring caravans at any given time. The 25 hardstanding pitches could all be in use, with no tents or caravans on any of the remaining grass pitches, and there would be no breach of condition 4.
14. Alternatively, 20 of the hardstanding pitches could be occupied by caravans (with 5 remaining unused) along with 5 tents located on the grassed areas and there would be no breach of condition 4. As correctly identified by the appellant in the appeal submissions, the condition is breached when there are 26 (or more) caravans or tents on the site at any one time.
15. Turning to the appellant's evidence provided in Appendices 5 to 10, these do no more than demonstrate that 50 pitches have been available on the appeal site for a continuous period of at least ten years. They do not provide any tangible evidence in support of the appellant's case that the site has been occupied by 26 or more caravans or tents at any one time.
16. Consequently, the primary source of evidence provided by the appellant regarding the actual use of the site are the five statutory declarations (SDs). The statutory declaration (SD) of Mr Hoare is somewhat vague and ambiguous. Whilst it sets out that he has stayed at the appeal site from 2005 to 2020, it fails to identify how frequently Mr Hoare visited the site during this period. Furthermore, whilst Mr Hoare states that during his time visiting the site it had been "*occupied by up to 50 caravan/tent pitches*", it is not clear whether he is referring to the individual pitches that are available, or whether he witnessed them being occupied by 50 caravans or tents. Even if it is the latter, the SD fails to identify how regularly Mr Hoare witnessed the limit of 25 caravans/tents being exceeded.
17. The same also applies to the SDs of Mr Norton and Mr Harper which are virtually identical to that of Mr Hoare, save for them explaining that they worked and stayed at the appeal site for periods between January 1997 and May 2021, and May 2001 and May 2021 respectively. None of these SDs, in my view, are sufficiently precise and unambiguous to demonstrate that condition 4 of the 2000 permission was breached for the requisite period.
18. The remaining two SDs are those of Mr & Mrs Jones who owned and operated the caravan site up until selling the site to the current owners. The contents of both SDs are identical and are both dated 1 December 2021. The SDs confirm that Mr & Mrs Jones had owned and operated the site from March 2005 until the date of the SDs and again confirmed that the site had provided 50 pitches for caravans and tents during this period. As already set out, the presence of the pitches for this period is not in dispute.
19. Paragraph 4 of both SDs state that "*The number of pitches occupied since March 2005 has regularly exceeded 50% and has often been 100% (50) during the summer months*". The appellant considers that this evidence demonstrates that

more than 25 pitches have been occupied in breach of condition 4 for in excess of ten years.

20. I accept that the SDs of Mr & Mrs Jones indicate that condition 4 of the 2000 permission had been breached on occasions since March 2005, with up to 50 caravans and/or tents being on site during the summer months. However, the SDs are severely lacking in any detail in this regard. In particular, whilst the words “regularly” and “often” are used there is no actual detail regarding what periods or number of days that the condition was breached, nor is there any detail on periods that the condition was complied with, and whether those periods amounted to days, weeks, or months. No booking records, invoices, photographs or any other information have been provided to demonstrate how “regularly” or “often” the condition was breached. Given the lack of any detailed evidence to back up the very generalised and vague statements given in the SDs, I afford them little weight.
21. The Council has also produced a range of aerial photographs³ dating from 2005-2007, 2009, 2010, 2014, 2017, 2020, and 2023. Whilst I accept that these images were taken at a specific moment on a specific day and therefore merely represent a snapshot in time, none of the images show condition 4 being breached.
22. The absence of this information is important as the main area of dispute in this case is whether the breach of condition has been continuous, or a series of individual breaches. The appellant has referred to court decisions⁴ on that matter, and it is clear that it is a matter of fact and degree, dependant on the facts of the case, as to whether a series of breaches amount to a single continuous breach of condition or a number of individual breaches. The number of breaches is of course an important consideration, but so are other matters including intent and any periods of compliance.
23. In this case, although it is not disputed that condition 4 will have been breached more than 10 years prior to the LDC application, there is no firm evidence regarding the number of breaches, or the length and frequency of any breaches including whether they amount to days, weeks, or months per year. I accept that given the provision of 50 pitches on the site it would have been theoretically possible to breach the condition every day, however there is insufficient evidence before me to demonstrate that was in fact the case. I also do not consider that the provision of 50 pitches on site necessarily amounts to an intention to continuously breach the condition, but it instead offers flexibility to customers, some of whom may wish to occupy a hardstanding pitch in their caravan or tent, whereas others may prefer to occupy a grass pitch.
24. To be clear, it is not necessary for condition 4 to have been breached every day for the full 10 years to show continuity. However, the evidence provided by the appellant falls well short of demonstrating that there had been a consistent breach of condition 4 over a 10-year period, or that there were not significant periods of compliance in between breaches.
25. I am aware that, as held in the case of *Ocado Retail Ltd*, the 10-year period could have been any period, and not just the period immediately prior to the LDC application. I also acknowledge that, once a lawful right has been accrued upon the

³ Council's Appendix 3

⁴ *Ocado Retail Ltd v London Borough of Islington* [2021] EWHC 1509 (Admin), *North Devon District Council v FSS & Stokes* [2004] JPL 1396, *Basingstoke and Deane BC v SSCLG & Stockdale* [2009] EWHC 1012 (Admin)

expiry of a time limit in s171B of the 1990 Act (in this case 10 years), then that right is not lost if it is not exercised for a period of time, provided there has been no abandonment or new use introduced. Neither issue arises here, given I have found that the appellant has failed to demonstrate that a 10-year period had been accrued at any point prior to the submission of the LDC application.

26. The burden of proof is on the appellant, and the evidence before me is not sufficiently precise and unambiguous to show, on the balance of probability, that condition 4 had been breached continuously for a 10-year period, without significant interruption, so as to be immune from enforcement action.

Conclusion

27. For the reasons given above I conclude that the Council's deemed refusal to grant a certificate of lawful use or development in respect of a continuous breach of condition 4 of planning permission 30/99/0028 is well-founded and that the appeal fails. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

David Jones

INSPECTOR