



Appeal Decision

Site visit made on 4 August 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Appeal Ref: APP/W3520/X/25/3359620

Keytons Pit, Newton Road, Sudbury, CO10 0PY

- 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 Mr Peter Keyton against the decision of Mid Suffolk District Council.
 - The application ref DC/24/03131, dated 15 July 2024, was refused by notice dated 18 September 2024.
 - 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 existing use of a static caravan as a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In an appeal under s195 of the Act against the refusal of a LDC, following on from a s191 application, the burden of proof is upon the appellant. The test of the evidence would need to show that the use of the land claimed had been occurring on an uninterrupted basis for a period of at least ten years prior to the date of the application made.
3. The onus is on the appellant to demonstrate that, on the balance of probability, this is the case. Accordingly, the key is that the evidence should be precise and unambiguous to this end.
4. Where LDCs are involved the planning merits of the development applied for do not fall to be considered. Instead, the decision will be based strictly on the evidential facts, planning legislation and, where relevant, case law.

Background

5. As the residential use of a caravan represents a use of the land its repositioning within the confines of the site does not affect the planning position.

Main Issue

6. The main issue is whether the residential occupation of the caravan, in other words the unauthorised material change in the use of the land, was lawful due to the passage of time, having continued unbroken on, or rather on an uninterrupted basis since at least 14 July 2014 – otherwise known as the ‘material date’ - being ten years prior to the date of the application made.

Reasons

7. The critical test for a LDC for an existing use is the state of affairs at the exact date the application is submitted.
8. Under planning legislation an unauthorised material change of use, which from the evidence provided was the planning status since the caravan's residential use commenced in 2005, would have achieved immunity from enforcement action if the use had continued uninterrupted for at least ten years. Nonetheless that immunity is not a permanent right. Instead, the immunity creates a lawful use that remains subject to the concept of abandonment.
9. The courts have held that the test of continuity is an objective one. Each case should, therefore, be considered on a fact and degree basis. The main factors to be assessed are the period of non-use, the physical condition of the caravan, whether there has been any intervening use and also the owner's intentions.
10. The latter point has been outlined by the appellant's account of the chronology. He says that he lived in a caravan on the land in 2004, with a mains water connection and with a cesspit installed. Then, from 2005, the appellant's brother and his wife lived in the caravan until 2018, when they left the site and moved elsewhere. This is corroborated by various persons who knew them or visited the site during this period.
11. The appellant indicates that this particular caravan remained on the land until 2020, when it was removed and replaced with a new caravan which was positioned on a different part of the site. He says that he and his wife lived in the replacement caravan for approximately one year until they moved away in 2021. He also says that it was reoccupied in 2023, and was lived in until the time this appeal was lodged.
12. The caravan currently lies vacant – or at least that is what was indicated to me at my site visit – and it was seemingly evident to me, at least from its external appearance, that it is less than likely that the caravan is currently in a condition for human habitation. Further, no indication or evidence has been provided to confirm that the existing caravan is hooked up to utilities.
13. Although I acknowledge that any intervening use would not have realistically occurred in this particular case I am concerned as to the apparent periods of non-use and the less than complete picture given. The original caravan would have lain vacant between 2018 and 2020, following which it was removed from the land and replaced by one positioned on a different part of the site. After a brief period of occupation, the replacement caravan lied vacant for two years until it was reoccupied in 2023.
14. It is clear that the Council holds little, if any, direct evidence to rebut the appellant's claims but, nonetheless, I find the evidence, in its totality, to be somewhat vague. Although there are no statutory declarations in support of the appeal I have no reason to doubt the appellant's 'Statement of truth' but the actual details are less than precise and unambiguous. As such, I find that the burden of proof required to demonstrate lawfulness of use, on the balance of probability, has not been met.
15. In light of the above I would suggest that since the appellant's brother vacated the site in 2018 there were periods when the Council could have taken enforcement

action against the residential use of the land given significant breaks in continuity. Accordingly, I would consider that these breaks constituted an abandonment of the lawful use which had previously arisen due to the Council's failure to take formal enforcement action between 2005 and 2018.

16. I note that the land benefits from a LDC issued in 2023 for its use for car repairs along with a wood workshop. However, from the evidence available and submitted alongside the current appeal, that is not the case for the land's use for residential purposes.
17. The appeal is therefore dismissed and I shall exercise my powers under s195(3) of the 1990 Act, as amended.

T C King

INSPECTOR