



Appeal Decision

Site visit made on 17 September 2019

by **Mr K L Williams, BA, MA, MRTPI**

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

Decision date: 15 October 2019

Appeal Ref: APP/D3505/X/19/3227644

Shotley Caravan Park, Gate Farm Road, Shotley, Ipswich, IP9 1QH

- 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 D Brownhill against the decision of Babergh District Council.
 - The application, ref: DC/18/02852 and dated 21 June 2018, was refused by notice dated 2 November 2018.
 - 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 was sought was the siting of mobile homes for permanent residential occupation.
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Preliminary Matters

1. The application referred in general terms to the siting of mobile homes for permanent residential occupation. The appellant explains that its purpose was to establish the principle of siting 13 twin-unit caravans for permanent residential occupation. The appropriate term in respect of caravans is their stationing, rather than their siting. It is open to me to modify the terms of an application. I have therefore determined the appeal on the basis of the stationing of 13 twin-unit caravans for permanent residential occupation.

Decision

2. The appeal is allowed and attached to this decision is a Lawful Development Certificate describing the use which it is considered would be lawful.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded.

Background and Relevant Planning History

4. Planning merits are not relevant in this case. They are not an issue for me to consider in the context of an appeal under section 195 of the Act, which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case, relevant planning law and judicial authority. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities.
5. The appeal site is the relevant planning unit. It is known as the Shotley Caravan Park and extends to about 3.3 hectares. There is an access from Gate

Farm Road. Drawing 1184-0001-01 provides an illustrative site layout. It shows the proposed 13 twin-unit residential caravans towards the eastern boundary of the site. When I visited there were caravans sited broadly in accordance with that layout.

6. The Council refused the application because it considered that the proposed use would result in a material change in the definable character of the use of the land. The site has an extensive planning history. Of most relevance to this appeal is the issuing, in March 2017, of an LDC for the use of the site for the stationing of 3 caravans for residential purposes and the stationing of 10 caravans for seasonal/tourism purposes. In its decision notice the Council set out that this reflected an enforcement notice issued in 1995. That notice had alleged the change of use of the land from recreational use to use as a seasonal caravan site. The appeal decision in respect of that notice (T/APP/C/95/D3505/640515-7) was issued on 22 November 1996. It upheld the enforcement notice but varied requirement 1 of the notice to read "*Remove all caravans from the land and cease using the land as a seasonal caravan site except to the extent to which the site was so used between April 1 and 31 October 1985.*"

Reasons

7. Notwithstanding the 1996 appeal decision, the terms of the LDC issued in March 2017 set out that use of the land for the stationing of 3 caravans for residential purposes and the stationing of 10 caravans for seasonal/tourism purposes is lawful. Consideration is therefore required of whether a change of use to that now proposed would amount to a material change of use.
8. Section 55(1) of the 1990 Act as amended provides that the making of a material change of use of land is development. Planning Practice Guidance explains that there is no statutory definition of the term 'material change of use'. However, it is linked to the significance of a change and the resulting impact on the use of land or buildings. Whether a material change of use has taken place is a matter of fact and degree and this should be determined on the individual merits of a case. It is consistent with relevant case law to consider whether the nature and scale of a proposed use would result in such a change to the definable character of the use that there would be a material change of use. In assessing this it is appropriate to consider any on-site effects of the proposed change, together with any off-site effects.
9. The March 2017 LDC confirms the lawfulness of 3 residential caravans, so that any effects fall to be considered in respect of the other 10 proposed residential caravans. The appellant submits 2 appeal decisions. Decision APP/C/93/P1615/627553 concerned the Clanna Caravan Park in Alvington, Lydney. Decision APP/B1225/X/15/3002181 concerned the Organford Manor Country Park, Organford. In both cases the approach taken by the Inspector was consistent with that set out above.
10. The proposed use would not entail any increase in the number of caravans over the 13 set out in the March 2017 LDC. It is not disputed that the proposed caravans would fall within the definition of a caravan in the relevant legislation. That includes the Caravan Sites and Control of Development Act, 1960 and the Caravan Sites Act, 1968. The March 2017 LDC refers to 10 of the caravans to be stationed on the site being for seasonal/tourism purposes. Notwithstanding the use of the term "seasonal", the LDC does not restrict use to any specified

period of the year. It follows that the caravans could be used throughout the year, for example by different groups of people. The term "tourism" can be given its ordinary meaning of being related to holidays or trips for pleasure.

11. With regard to on-site effects, the Council considers that use for 13 permanent residential caravans would be likely to result in the creation of external garden areas, with associated features such as sheds, pools, greenhouses and boundary features. It also contends that there would be increased demand for parking and the need for larger areas for parking on the site.
12. The 2017 LDC did not limit the layout of the caravans so that the layout could be the same whether the caravans were for holiday or permanent residential use. The use of a plot for a permanent residential caravan would be more likely to result in, for example, an associated shed or outbuilding. On the other hand, it is not unusual for holiday caravan parks to have defined plots in order to provide some privacy or to provide some planting within those plots. Nor would it be unusual for facilities provided to include, for example, barbeques or outdoor tables and seating. The use of a plot for a holiday caravan might well result in more than one car arriving, for example where a family group was in occupation. Visits by vehicles servicing the site, for example for waste collection or servicing the caravans and their equipment, would occur whether there was permanent residential use or use related to tourism. While some change in use and appearance within the site would be likely with permanent residential occupation, it would be modest in extent. The site is set well back from the B1456 and any internal changes would be most apparent to those entering the site itself.
13. Turning to off-site effects, the Council says that permanent residential use would result in different movement patterns, with increased trips to work, more visits to the site by friends and more visits to local medical, health, educational and other services. It is also said that off-site effects would result from the year-round occupancy associated with a permanent residential use when compared with the seasonal character of tourism use.
14. The use of the access road from the site onto the B1456 is shared with the occupiers of some dwellings outside the site. A somewhat lower occupancy rate would be likely, particularly in the winter months, if the caravans were used for tourism purposes rather than as permanent homes. However, holiday occupation could take place for much of the year so that the extent of that difference is uncertain. Some change in patterns of movement would be likely. While holidaymakers would not be making trips to work, they would be travelling to local shops and facilities, or for leisure purposes, as would permanent residents. Given the number of caravans involved it is unlikely that there would be any marked effect on traffic movements on the surrounding road network. Nor does the evidence submitted suggest that any significant additional pressure on local services would be likely from a permanent residential use. I conclude that the off-site effects of permanent residential use would be modest.

Overall Conclusion

15. The appellant cites the judgement in *I'm Your Man Ltd v SSE & North Somerset DC [1999] 4 PLR 1071*. However, that judgement concerned the need for conditions to impose limitations on a planning permission. That issue is not relevant in this appeal. Nevertheless, having regard to the above and to all

other matters raised it is concluded that the proposed use of the site for the stationing of 13 permanent residential caravans would not amount to the making of a material change of use that requires planning permission. The Council's decision to refuse to issue a lawful development certificate was therefore not well-founded. The appeal should succeed. I shall exercise the powers transferred to me under section 195(2) of the Act as amended.

K Williams

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 21 June 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown with a bold black outline on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use would not have resulted in a material change of use of the land.

Signed

K Williams
INSPECTOR

Date 15 October 2019

Reference: APP/D3505/X/19/3227644

First Schedule

Use of land shown with a bold black outline on the attached plan for the stationing of 13 twin-unit caravans for permanent residential occupation.

Second Schedule

Land at Shotley Caravan Park, Gate Farm Road, Shotley, Ipswich, IP9 1QH.

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended). It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and, thus, not liable to enforcement action under section 172 of the 1990 Act on that date. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

