



Appeal Decision

Site visit made on 9 January 2018

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2018

Appeal Ref: APP/R3325/X/17/3178787

La Lade Caravan Park, Long Load, Langport, Somerset, TA10 9JX.

- 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 Jon Holland against the decision of South Somerset District Council.
 - The application Ref 16/03541/COL, dated 15 August 2016, was refused by notice dated 6 December 2016.
 - 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 is sought is the use of the existing lawful caravan park for the siting of up to 25 static caravans.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description on the application form was "use of land as caravan site for touring, static and camping." This was subsequently amended at the appellant's request to "the use of the existing lawful caravan park for the siting of up to 25 static caravans". This was the basis upon which the Council determined the application.
3. Although no Council officer attended the site inspection, I was able to view the site as an access only site visit with the agreement of the appellant.
4. A number of local residents and the Parish Council object to the proposed development but, for the avoidance of doubt, I should explain that the planning merits of the use are not relevant and they are not therefore an issue for me to consider, in the context of an appeal which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

The Site and Relevant Planning History

5. The appeal site is an existing holiday caravan site situated to the west of properties fronting the main road through the village. It comprises about 2ha of grassland divided by a fence, stream and hedgerow. At the time of my site inspection, there were about 15 touring caravans of which a number had attached awnings, in the field to the east of the stream, and none in the field to

the west, although there were about 12 hook-up points. Between the driveway which passes through the site to an adjacent pumping station and the properties fronting the main road and Sutton View, there were four large 'American' trailer vans, two of which did not have a drive unit connected.

6. Adjacent to but outside the appeal site and to the south of the shared access drive was an area of land where three caravans and two mobile vans were sited.
7. The site is within flood zone 3, a RAMSAR site, an SSSI and a SPA and Natura 2000 site, although these designations are not relevant to the determination of an LDC appeal.
8. An LDC was issued in 14 January 2009 for the use of the site as a 'touring caravan site for a maximum number of pitches for such recreational vehicles to not exceed 25 caravans (08/05083/COL).
9. An LDC application was refused on 21 June 2016 for the proposed use of the site for the siting of 53 static caravans on the basis that it would amount to a material change in the character of the use of the land due to intensification of the use having a materially and significantly different impact on designated ecological sites, highway safety, flood risk and character of the locality (15/05740/COL).

The appellants' case

10. The baseline level of lawful development allowed on site by the 2009 LDC is the use of the land as an unrestricted caravan park, laid out in any way with any type of caravan, including touring or static.
11. The change of some or all of the 25 touring caravans to static caravans would not represent a material change of use. There is no material difference between touring and static caravans in terms of the 1960 Act as both are caravans. In terms of the actual character of the use as it applies to this site, there is little difference. Some caravan sites have conditions imposed that require the caravans to be removed at certain times of year, or limit the length of stay of a caravan or its occupants to a specific time period. In these situations, only touring caravans can realistically be used on a site. In this case, however, there is no such restriction. The touring caravans can, and the vast proportion do, remain on site all year round. Therefore the act of replacing some or all of the touring caravans with static caravans would have little noticeable effect on the character of the use. The site would still be a caravan park with up to 25 caravans stationed on it on a 12 month basis. It is difficult to see how this could be a material change.
12. Counsel's opinion dated 20 October 2015 and 8 May 2017 (Richard Harwood QC) confirms the above view.
13. The comments of the Council's landscape officer and the ecological evidence is erroneous. Natural England's advice treats the application as though it was a planning application and considers planning merits.

The Council's case

14. The Council considers that the siting of up to 25 static caravans would give rise to a material change of use from that described in the LDC dated 14 January

2009. Although the number of units would not change from the 2009 LDC number, the type of unit would change. It is considered that there would be material change in the impacts of the site in visual terms and upon the qualifying features of the designated site and this reflects the decisions in *R(on the application of Childs) v FSS (2005)* and *Restormel v SoSE and Rabey*¹.

Reasons

15. I fail to understand how the appellant can construe the 2009 LDC to be something very different to what is stated on the face of the LDC. The 2009 LDC was explicitly for up to 25 touring caravans/recreational vehicles and this distinguishes what is lawful in planning terms. Whilst the Caravan Sites and Control of Development Act 1960 defines what may constitute a caravan for the purposes of licensing a site, the description of the lawful use on the LDC is unambiguous.
16. The presence of 25 static units would have a different impact on the site compared to that of 25 touring units. By their very nature, touring caravans are able to be towed on the road from one site to the next. On the appeal site, they are largely sited within a pleasant grassed field. In contrast, static units tend to be larger and modular, delivered to site on a haulage vehicle and could not be towed from one place to the next. Static units tend also to be placed on a hardstanding, which is often required as part of the license and would constitute permitted development under the Town and Country Planning (General Permitted Development) Order 2015, as amended, although the appellant states that no operational development is proposed. Notwithstanding this, in my experience hardstandings tend to be the norm rather than the exception with static vans.
17. Static caravans are frequently connected to services on a permanent basis and their occupants often construct porches, sheds, decking, fenced private areas and gardens. All these elements, together with domestic paraphernalia, contribute to a significant change in the appearance of the site, some of which can appear as permanent developments of bungalows in their own plots, particularly when garden plants begin to mature. Additionally, the way the site functions could change as the residents of static vans may be dependent on a wider range of local services such as schooling, health, shopping and employment. These factors would combine to create a different level of movement to and from the site and have impacts on the locality.
18. As the appellant states, there are no limitations on the use of the site in terms of their removal or occupancy at certain times of the year, nor on the layout. However this does not mean that the site can lawfully be used for the stationing of static caravans. The very nature of touring caravans is their seasonal use although on this site, caravans are in situ out of the traditional holiday periods and some 15 tourers and 4 large recreational vehicles were present when I visited the site. A number of the existing caravans appear to have small paved areas and awnings but whether many were occupied at the time of my visit is unknown, although that is not a determining factor in this appeal. The appellant states that the touring caravans remain on site and are occupied all-year-round by those holidaying in the area or by contractors.

¹ Full citations were not provided by the Council

19. I remain unconvinced with the appellant's assertion that for all intents and purposes seasonal tourers left on site year round are 'static' caravans and there is no material difference in a permanently sited touring caravan and a permanently sited static caravan. For the reasons expressed above, I consider there to be significant and material differences between the two with static caravans having a greater impact on the landscape and, to some extent, in the relationship which the occupiers of the caravans would have over a wider area.
20. I have had regard to the appellant's reference to appeal decision APP/E2205/A/06/2016873 and 2029392; the difference between those appeals and this case; and, that the appellant now questions the basis upon which the Council determined the LDC application in June 2016. However no appeal was made against that decision.
21. I note concerns that the permanent physical presence of caravans could lead to disturbance to wetland birds in winter months with consequential impacts on the designated sites, albeit that it is difficult to predict the degree of harm between seasons and years. The Council considers these concerns are also reflected in flooding and highway issues. However, in acknowledgement of the appellant's statement that the caravans are occupied all the year round, the likely level of impact on wildlife is not likely to be significantly different to that at present.
22. I have had regard to the case law referred to by the appellant and to their view that the character of the site is that of a caravan park which would not change with the siting of static caravans. However, this does not lead me to reaching a different conclusion based on the evidence before me.
23. Taking account of these factors I consider that as a matter of fact and degree the use of the site 25 static caravans would be materially different to the present lawful use of the site, leading to a change in the character of the land, and as such, would represent a material change of use requiring planning permission.

Conclusion

24. 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 proposed use of the existing lawful caravan park for the siting of up to 25 static caravans was 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.

Peter Jarratt

Inspector