
Platt
Borough Green And Platt

6 AUGUST 2025

TM/24/01923/PA

Location: LAND EAST OF LAND KNOWN AS MUMBLES FARM Crouch Lane
Borough Green Sevenoaks TN15 8QL

Proposal: Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960

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1. Description of Proposal:

- 1.1 This application seeks to establish the lawful stationing and occupation of a mobile home at Land East of Land Known as Mumbles Farm for human habitation. The applicant asserts that the above has been in place in excess of 10 years and therefore would now be lawful.

2. Reason for reporting to Committee:

- 2.1 The application has been called in to the Development Control Committee by Councillors Wendy Palmer and Mike Taylor for the following reasons – *The proposal will have a detrimental impact upon the Green Belt with no special circumstances to justify the proposal being acceptable.*

3. The Site:

- 3.1 The site lies within the countryside and within the Green Belt. The static caravan is sited on land east of Land Known as Mumbles Farm close to the field boundary of the site with the highway, Crouch Lane.

4. Planning History (relevant):

24/01452/PA – Adjacent land Known as Mumbles Farm

Certifies - 07 November 2024

Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960.

24/00721/PA – Adjacent land Known as Mumbles Farm

Refuse - 09 July 2024

Lawful Development Certificate Existing: for the change of use of land for the siting of a static caravan for human habitation and land used in

conjunction with that human habitation, creating a caravan site as defined in the Caravan Sites Act 1968 Section 1(4)

5. Consultees:

Consultee	Summary of Comments
Parish Council	None received

6. Determining Issues:

- 6.1 It is first important to clarify that whilst the site is located within the Metropolitan Green Belt, consideration on whether the application would be inappropriate development or whether the proposal would harm the openness of the Green Belt is not for consideration in this case.
- 6.2 The issue with this application is to determine, on the balance of probability, the use for the land for a residential mobile home has been undertaken for a period exceeding ten years. Section 191 of the Town and Country Planning Act 1990 (as amended) allows for people to ascertain whether the works undertaken were lawful.
- 6.3 Section 171B of Part VII of the Town and Country Planning Act 1990 (as amended) states that;

“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach”.

- 6.4 The NPPG provides advice on how applications for Certificates of Lawful Development are to be considered. It states at paragraph 006:

“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land...”

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the

application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability".

6.5 The evidence submitted by the applicant comprises:

Planning Statement

Site location Plan

Application Form

Enforcement letter

Signed declaration from Mr Tony Williams

Signed declaration from Mr Kevin Avery

Signed declaration from Mr Patrick Delaney

Signed declaration from Ms Peter Myles

The application is also accompanied by two appeal decisions as part of the planning statement:

- Appeal Ref: APP/L3245/X/19/3222768 - Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

- Appeal Ref: APP/B3410/X/19/3239498 - Annexe/Water Lodge, Lodge Hill, Tutbury, Burton-on-Trent, Staffordshire DE13 9HF

6.6 The Planning Statement confirms that 4 statutory declarations have been submitted and in summary that *"they all precisely and clearly identify the entire site with a title plan outlined in red, then go on to specify the specific extent of land mass subject to the application use, namely that of a caravan site, inserting a location plan, that matches the application document plan, showing the area outlined in red, with the remainder outlined in blue"*.

6.7 The application is accompanied by 4 sworn statutory declarations setting out evidence of fact. This evidence, having been sworn before a solicitor is subject to the Statutory Declarations Act 1835, filing a false declaration knowingly and wilfully is a criminal offence under Section 5 of the Perjury Act 1911 and you may be imprisoned for up to 2 years or fined or both.

6.8 The planning statement also contends that *"If a Local Planning Authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."*

6.9 The timeline summary within the Planning Statement is set out as follows:

- Change of use of the Caravan from ancillary to agriculture to use for human habitation commences – 14th December 2013 (by Mr Kevin Avery)
- Time of application submission – 2nd December 2024
- Total time used for human habitation prior to Application submission – 11 years (at least).

6.10 In support of the claim the declaration evidence sets out the following:

March 2012

6.11 Mr Myles wrote to the council setting out that he was replacing the two tourers with a static caravan and at that time was being used as a welfare unit whilst tending the land. Evidence has been provided of the letter submitted and imagery showing the replacement static caravan.

December 2013

6.12 Mr Myles (Point 8, page 1) further sets out that following the static caravan being used as a welfare unit for almost 2 years it's use was then changed in December 2013 to that of human habitation by a Mr Kevin Avery.

September 2023

6.13 Mr Myles goes on to state that the use of the static caravan for human habitation continued until the 8th of September 2023 where the caravan was then sold. A period of 9 years and 9 months (but for 5 days). He also confirms that at no point did the use cease or change from human habitation during Mr Avery's time living in the caravan.

6.14 Mr Myles also rebuts and refutes the enforcement file 15/00380 that a site visit was undertaken, and the caravan was not being lived in which is addressed at point 10 of the Statutory Declaration.

6.15 Mr Myles acknowledges that the change of use of the land to a caravan site and the use of the static home for human habitation by Mr Kevin Avery alone would not be sufficient to be immune from enforcement as the use had not continued for a period of 10 years, however a further Statutory Declaration by Mr Patrick Delaney confirms the continued use of the site for in excess of 10 years.

6.16 A further Statutory Declaration by Mr Kevin Avery set out the timeline of when he moved into the static caravan (point 3) on December 14th, 2013, and this was his sole and primary residential home until the 8th of September 2023. Again, Mr Avery refutes the enforcement file note and confirms he was living in the caravan at the time of the enforcement visit.

6.17 Another Statutory Declaration from Mr Patrick Delaney confirms that he purchased the static caravan on the 8th of September. He further confirms (point 5) that he

moved into the static caravan on the 14th of September 2023 and that he continued to live in the property until the 23rd of June 2024. The Statutory Declaration then confirms that a Miss Molly Nicholson moved in on the 7th of July 2024 and remains occupying the static caravan at the time of the application.

- 6.18 In total, the combination of Mr Myles and Mr Avery's occupation of the static caravan would amount to more than 10 years. Whilst it is acknowledged there have been some vacant days between the sale and purchase of the static caravan between owners, it is considered this would not amount to a material break or cessation of use.
- 6.19 Finally, another Statutory Declaration has been submitted to support the Certificate from Mr Tony Williams who confirms that Mr Kevin Avery was living at the property as outlined within the other submitted Statutory Declarations (point 6).
- 6.20 The Planning Statement confirms that there are no Council Tax or Business Rate records for the site and contends this does not in of itself determine that a change of use has not taken place as outline within the Statutory Declarations. The statement further refers to the appeal matters submitted in support of the applications which have determined similar matters and considered on balance that the absence of a Council Tax record would not preclude a Certificate being issued, as long as the other evidence submitted is sufficient precise and unambiguous.

LPA's Evidence

- 6.21 In addition to the evidence submitted by the applicant it is also necessary to consider the evidence in possession of the Local Planning Authority.
- 6.22 It is noted that concerns have previously been raised that neighbours have driven past the site on occasions in the last ten years and there was no indication that anyone was living at Mumbles Farm. The LPA acknowledge these comments but affords them little weight in its assessment of the application as they are not substantiated by any evidence.
- 6.23 The LPA visited the site in 2015/16 (Enforcement Reference 15/00380/USEM) in connection with the caravan being in residential occupation. Following the LPA's investigation, which including visiting the site, the LPA concluded that the caravan was not being used for human habitation, rather it was only stationed on the land or used as a welfare unit. The officer reported that the caravan on site is not occupied and is used as shelter when the owner of the site is on the farm. Such a use does not require the benefit of planning permission from the LPA. Therefore, it was concluded as part of the Enforcement Investigation that no breach of planning control was occurring.
- 6.24 The LPA must afford this weight in its assessment of the application.
- 6.25 The statement on file is however somewhat ambiguous as it states "I visited the site and observed a caravan in situ. It did not appear to be inhabited". (my emphasis added). This statement implies that an internal inspection of the caravan was unlikely

to have been undertaken.

- 6.26 Other than this however, the LPA have no evidence to question the assertion or versions of events as set out within the sworn Statutory Declaration which should be attributed significant weight in the balance.

Comments on the applicant's evidence in light of the Council's evidence.

- 6.27 The LPA acknowledges that it does not have any substantive evidence to refute the evidence submitted by Mr Myles, Mr Avery, Mr Delaney and Mr Williams and as such on the balance of probabilities it is accepted that the caravan has been used for residential purposes from December 2013 to date.
- 6.28 The LPA acknowledges the two appeal decisions submitted in regard to Council Tax and accepts the Inspectors finding in relation to those appeals. It also acknowledges that the current owner has not registered for Council Tax, this is a separate function outside of planning and can be referred to the appropriate Team within the Council to further consider.

Conclusion

- 6.29 The onus rests with an applicant to provide sufficient information to make their case in relation to a CLUED application. However, if the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse to grant a certificate, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
- 6.30 In light of the above the applicant **has been** able to be demonstrated that on the balance of probability, the caravan has been on the site for over 10 years and continuously occupied for human habitation throughout this period, which continues to today. The application can therefore be certified in this regard.

7. Recommendation: Certificate of Lawfulness is Lawful.

- 7.1 Certifies in accordance with the following submitted details:

Planning Statement

Site location Plan

Signed declaration from Mr Tony Williams

Signed declaration from Mr Kevin Avery

Signed declaration from Mr Patrick Delaney

Signed declaration from Ms Peter Myles

The application is also accompanied by two appeal decisions:

- Appeal Ref: APP/L3245/X/19/3222768 - Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

- Appeal Ref: APP/B3410/X/19/3239498 - Annexe/Water Lodge, Lodge Hill, Tutbury, Burton-on-Trent, Staffordshire DE13 9HF

Conditions/Reasons:

1. The submitted evidence is sufficiently clear and unambiguous to support, on a balance of probabilities, the conclusion that the mobile home at Land east of Land Known as Mumbles Farm has been occupied as a residential dwellinghouse for a period in excess of 10 years prior to the submission of the application.

Contact: Phillip Richards