

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DC	25/08/2021
Planning Development Manager authorisation:	JJ	26/08/2021
Admin checks / despatch completed	DB	27.08.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	27.08.2021

Application: 21/01184/LUEX **Town / Parish:** Ardleigh Parish Council

Applicant: P Josselyn

Address: Ardleigh Caravan and Camping Park Dead Lane Ardleigh

Development: Lawful development certificate for the storage only (not for occupation) of up to 250 (maximum) motorhomes/towed caravans.

1. Town / Parish Council

Ms Clerk to Ardleigh
Parish Council
05.08.2021

So long as the storage is limited to 250 caravans Ardleigh Parish Council would support this application from an established and valued local business.

2. Consultation Responses

Not applicable.

3. Planning History

None.

4. Relevant Policies / Government Guidance

The Town & Country Planning Act 1990 (as amended)
The Planning and Compensation Act 1991 (as amended)
Town and Country Planning (Development Management Procedure)
(England) Order 2015
The National Planning Practice Guidance

5. Officer Appraisal

The Site

The land to which the application relates is located off Dead Lane, within the parish of Ardleigh. A site visit confirms that campervans and towed caravans, both unoccupied, are currently stored on the land, which enclosed in part by high hedging with security fences and security gates.

The Development

The application is for a Lawful Development Certificate for an Existing use – the use of land at Ardleigh Caravan and Camping Park, Dead Lane, Ardleigh, for the storage only (not for occupation) of up to 250 (maximum) motorhomes/towed caravans.

Main Issues

The Planning Practice Guidance explains that the statutory framework covering “lawfulness” for lawful development certificates is set out in section 191(2) of the Town and Country Planning Act

1990, and that lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

The Planning and Compensation Act 1991 (section 171B) sets out the time limits within which local planning authorities can take planning enforcement action against breaches of planning control. In most cases, development becomes immune from enforcement action if no action is taken:

- within 4 years of substantial completion for a breach of planning control consisting of operational development;
- within 4 years for an unauthorised change of use to a single dwellinghouse;
- within 10 years for any other breach of planning control (essentially other changes of use)

In certain circumstances, the above time-limits do not prevent enforcement action after the relevant dates:

- where earlier enforcement action has been taken within the relevant time limit (section 171B(4)(b) of the Town and Country Planning Act 1990);
- where there has been a deliberate concealment of a breach of planning control, local planning authorities can seek a 'planning enforcement order' to allow them to take action after the time limits in section 171B have expired; where a person has deliberately concealed a breach of planning control the courts have found that the time limits in section 171B are not engaged until the breach has been discovered.

Sections 191 and 192 of the Town and Country Planning Act 1990 provides for anyone (not just a person with a legal interest in the land) to apply to the local planning authority for a lawful development certificate. A certificate is a statutory document certifying:

- in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or
- in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

Applications for Lawful Development Certificates should include the following information:

- whether the application relates to:
 - I. a use
 - II. a building operation
 - III. a condition not complied with
- the date that the use (or breach of condition) started, or the date on which the building was substantially complete
- any use class the applicant considers to be applicable
- the reasons the applicant thinks they are entitled to a Lawful Development Certificate
- any other relevant information
- a plan identifying the land
- a certificate as to the applicant's interest (ownership, tenancy etc) in the land and any interest of any other person

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence. This could include:

- proof that any building was 'substantially complete' more than four years before the date of the application
- proof that any use (or breach of condition) has been carried out continuously for a period of 10 years (four years in the case of a dwelling).

The Submission

The application states that the site has been used for the storage of 250 caravans for over 10 years, and includes the following:

- A red edged site plan at a scale of 1:1250 identifying the site.
- Question 5 of the application form confirms that the applicant has an ownership interest in the land.
- Question 7 of the application form confirms that the application relates to an existing use and cross-refers to a submitted planning statement.
- Question 9 confirms that the use began more than 10 years before the date of the application.
- The planning statement included contains Google Earth aerial photography and the following appendices:
 - a. MRF1 Diary entries of bookings from June 2008 to October 2009;
 - b. MRF2 Storage contracts for customers who used to store their mobile homes dated between 2007 and 2010 (24 No.);
 - c. MRF3 Storage contracts for customers who currently store their mobile homes dated between 2007 and 2010 (26 No.);
 - d. MRF4 Two photographs of the site in 2007;
 - e. MRF5 Invoices for the installation of electronic gates/access control and for 150 access key fobs, and;
 - f. MRF6 Access control records, with a list of all users from August 2007 to March 2021.

Consideration

While the application as submitted sought a lawful development certificate for the use of land 'to *maintain the storage of 250 caravans*', the Council's site visit of 21st July 2021 confirmed what is currently stored is campervans and towed caravans (both unoccupied). Moreover, the photographic evidence in support of the application evidences the same. Therefore, in the interests of precision and to more accurately describe the use of the land, with the applicant's agreement, the description has been amended to read '*Lawful development certificate for the storage only (not for occupation) of up to 250 (maximum) motorhomes/towed caravans*'.

On the supplied site plan 250 storage pitches can be counted, whereas on the aerial view dated 2009 circa 100 campervans/towed caravans can be counted, and in the aerial view of 2012 circa 150 can be counted. While the Council cannot be certain of the precise number of campervans/towed caravans that have been stored on the site at any one time, the number of storage pitches evidenced is in the order of 250. The evidence is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, the site has been used for such storage purposes for a period in excess of the relevant 10 year period. Moreover, there is no evidence of any intervening use or that the use has not been carried out continuously.

The Council's own records show that no enforcement action has been taken in respect of the storage use within the relevant time limits, and there is no evidence that the development has been deliberately concealed. Therefore, no planning enforcement order has been sought by the Council. As a result, the statutory time-limits for enforcement action set out above have not been disengaged.

Representations

Paragraph: 008 Reference ID: 17c-008-20140306 of the Planning Practice Guidance states that there is no statutory requirement to consult third parties, including parish councils or neighbours. Nevertheless, it goes on to say that it may be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Importantly, views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

The local planning authority notified Ardleigh Parish Council. In reply, the Parish Council offer no evidence to contradict the applicant's submissions, and neither has any third party. Provided that any lawful development certificate is limited to 250 units, the Parish Council comment that they are in support of the application which is for 'an established and valued local business'.

Conclusions:

No enforcement action has been taken within the relevant time limits and no planning enforcement order has been sought because the development has not been deliberately concealed.

The aerial photographic evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, the site has been used for the storage of up to 250 campervans and towed caravans for a period in excess of 10 years. While not in the form of a sworn statement, which reduces the weight that can be attached to it, the submitted planning support statement further confirm this by reference to copies of contracts for storage, diary entries for bookings, and invoices for secure access gates and access control key fobs. The case advanced is not disputed by the Parish Council, who recognised that it is an established business, and there is no evidence to the contrary.

For the above reasons, the time limits for enforcement have expired. The development is therefore immune and lawful through the passage of time. Therefore, a certificate of lawful development should be granted.

6. Recommendation

Lawful Use Certificate Granted

7. Reasons

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, the storage only (not for occupation) of up to 250 (maximum) motorhomes/towed caravans at Ardleigh Caravan and Camping Park, Dead Lane, Ardleigh, has been carried out continuously for a period of 10 years and is therefore immune from enforcement action.

8. Informatives

None.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO