

Open

Planning Committee

Information Pack

May 2020



Wyre Forest District Council



Planning Committee Information Pack

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WYRE FOREST DISTRICT COUNCIL

Planning Committee

19 May 2020

PLANNING AND ENFORCEMENT APPEALS

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1520 19/0218/ENF	APP/R1845/C/18 /3216916	Mr Robert Dyke	EASTER COTTAGE NORTHWOOD LANE HILL FARM BEWDLEY DY121AS Unauthorised two storey extension to a bungalow (Enforcement case 16/0049/ENF)	LI 12/04/2019	17/05/2019	07/06/2019	07/01/2020	

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1527 19/0207/CERT/3230693	APP/R1845/X/19	MR FINNEGAN	HARBOROUGH FARM BARN BIRMINGHAM ROAD BLAKEDOWN KIDDERMINSTER Proposed side extension, porch, detached garage and changes to external fenestrations	WR 24/07/2019	28/08/2019			
WFA1528 19/0056/CERT/3227384	APP/R1845/X/19	RLS ASSOCIATES (MR & MRS R SMITH)	HODGE HILL FARM BARN 3 BIRMINGHAM ROAD KIDDERMINSTER Certificate of Lawfulness Development for existing use: Domestic use of caravan	WR 26/07/2019	30/08/2019			Dismissed 23/04/2020

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1538 19/0268/FULL	APP/R1845/W/1 9/3240865	L Bridges	55 HIGH CLERE BEWDLEY DY122EX Erection of one detached split level house with integral garage	WR 12/12/2019	16/01/2020			
WFA1539 19/0291/PIP	APP/R1845/W/1 9/3241012	Mr J McConnell	LAND AT CHURCH VIEW BEWDLEY DY122BZ Erection of 4no. Bungalows	WR 12/12/2019	16/01/2020			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1540 19/0409/FULL	APP/R1845/D/19 /3242397	Mrs B Nichol	7 TEAL CRESCENT KIDDERMINSTER DY104ET Erection of single storey front extension including porch and extensions to existing side garage	WR 17/12/2019	21/01/2020			
WFA1541 19/0096/FULL	APP/R1845/W/1 9/3242723	SHIPLEYS	25 VICAR STREET KIDDERMINSTER DY101DA Change of use from retail (Class A1) to amusement centre (adult gaming centre) and construction of a smoking shelter to the rear	WR 16/01/2020	20/02/2020			Allowed 17/04/2020

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1543 20/0030/ENF	APP/R1845/C/19 /3221145	Mr Carpenter	BLACKSTONE MEADOWS STOURPORT ROAD BEWDLEY DY121PU Unauthorised Use of Land	HE 29/01/2020	04/03/2020		27/05/2020	

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1544 19/3053/PNRE	APP/R1845/W/1 9/3243004	MRS J ROSE	OAK TREE FARM POUND GREEN ARLEY BEWDLEY DY123LG Change of use of Agricultural Building to a Dwellinghouse (C3) (Resubmission of 19/3011/PNRES)	WR 29/01/2020	04/03/2020			
WFA1545 19/0452/FULL	APP/R1845/W/1 9/32422675	MR BRYAN TALBOT	CHAPEL PADDOCK CHAPEL LANE CALLOW HILL KIDDERMINSTER Erection of two detached dwelling houses, with new vehicular access and associated works	WR 29/01/2020	04/03/2020			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1547 18/0331/FULL	APP/R1845/W/1 9/3219966	MR & MRS CARPENTER	LAND AT BLACKSTONE MEADOW STOURPORT ROAD Erection of a temporary rural workers dwelling and agricultural buildings, with associated works	HE 29/01/2020	04/03/2020		27/05/2020	
WFA1548 19/0728/FULL	APP/R1845/W/2 0/3246529	MR JAMES HEMMINGS	4 BELBROUGHTON ROAD BLAKEDOWN KIDDERMINSTER DY103JG Proposed conversion of garage to dwelling (C3), including rear extension and parking	WR 02/03/2020	06/04/2020			
WFA1546 20/0031/ENF	APP/R1845/C/19 /3224904	Mrs Carpenter	BLACKSTONE MEADOWS STOURPORT ROAD BEWDLEY DY121PU Unauthorised Use of Land	HE 29/01/2020	04/03/2020		27/05/2020	



Appeal Decision

Site visit made on 12 March 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal Ref: APP/R1845/W/19/3242723 25 Vicar Street, Kidderminster DY10 1DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Shipleys against the decision of Wyre Forest District Council.
 - The application Ref 19/0096/FULL, dated 7 February 2019, was refused by notice dated 10 June 2019.
 - The development proposed is change of use from retail (class A1) to amusement centre (adult gaming centre) and construction of a smoking shelter to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from retail (class A1) to amusement centre (adult gaming centre) and construction of a smoking shelter to the rear at 25 Vicar Street, Kidderminster DY10 1DA in accordance with the terms of the application, Ref 19/0096/FULL, dated 7 February 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location & Block Plan scale 1:1250, 593/03 Rev A; 593/05 Rev A; 593/06 Rev. A, 593/07 Rev B and 593/09 Rev B.
 - 3) Prior to the erection of the smoking shelter, samples of the materials to be used in its construction must be submitted to and approved in writing by the local planning authority. The smoking shelter shall be constructed in accordance with the approved details and thereafter maintained.

Application for costs

2. An application for costs was made by Shipleys against Wyre Forest District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed loss of a retail unit on the vitality and viability of Kidderminster town centre.

Reasons

4. The appeal site is an existing retail unit in a pedestrianised street in Kidderminster town centre. It is located adjacent to a building society with the other surrounding premises in retail use. Although there are a number of vacant units in the main shopping area, including the appeal premises, it was evident at my site visit that the town centre generally appeared to be thriving.
5. The appeal site is located within the area designated as a Primary Shopping Frontage within a Primary Shopping Area (PCA) in Policy SAL.GPB2 of the Site Allocations and Policies Local Plan 2013 (SAPLP). Paragraph 5.23 of the Kidderminster Central Area Action Plan 2013 (KCAAP) explains that the Primary Shopping Frontage is considered to be the prime retail location of the town, where A1 retail development will be concentrated and other uses will be restricted, in order to maintain the retail experience.
6. The proposed amusement centre would contain fruit machines and there would be a limited catering element. Amusement centres are not uncommon in town centres and rely on pedestrian flows to operate. The company operate an existing amusement centre in Worcester Street which is close to the main town centre but in a more peripheral location. Having regard to the appellant's survey of customers of those premises, it would appear that people combine trips to the amusement centre with other purposes, in particular shopping and, to a lesser extent, work.
7. Although SAPLP Policy SAL.GPB2 and KCAAP Policy KCA.GPB2 do not specifically encourage such a use in this Primary Shopping Frontage location, the proposal would provide a form of leisure use which would clearly relate to, support and complement the role and retail function of the town centre as required by criterion 2.i) of Policy SAL.GPB2.
8. The provision of a safe environment is also a requirement of SAPLP Policy SAL.GPB2 criterion 2.i), and in this regard I note concerns expressed by Worcestershire Public Health about potential impacts of the proposal on crime, anti-social behaviour and mental health. I have taken into account the Council's submissions regarding places which have a number of high risk permissions and the identified areas of deprivation within the Wyre Forest. However, I have not been provided with any substantive evidence that the proposed use would have an adverse impact on crime, anti-social behaviour, vulnerable groups and mental health and that it would add to the deprivation in the area. In any event, the proposed use would require a licence under the Gambling Act and concerns of this nature could be fully addressed through this process. It is not for the planning system to duplicate issues covered through other legislative regimes. I therefore attach limited weight to these issues.
9. Criterion 2.ii) of SAPLP Policy SAL.GPB2 is concerned with the impact of the proposal on the vitality and viability of the centre. There are a number of vacant units in the town centre, and securing a use for the appeal premises which would support the primary retail function of the area would have a beneficial impact on vitality and viability.
10. The use of the amusement centre would be restricted to people over a certain age, but I have been provided with no evidence that this would result in a reduced footfall in the town or would impact to a harmful degree the number of visitors to the town centre.

11. I acknowledge the Council's concerns about the intensification of non-A1 uses in this area and the slow creep of such uses, which could have a detrimental impact on the secondary shopping area as well as the town centre. However, the proposed use of the appeal site adjacent to a building society but otherwise surrounded by retail units would not result in an adverse cluster of non-retail uses or the fragmentation of the shopping frontage in this particular location. Furthermore, the small size of the unit compared with the surrounding shops would limit the extent to which the proposed use would dilute the primary retail function of this part of the town centre. Therefore, there would be no conflict with Criterion 2.iii) of Policy SAL.GPB2 of the SAPLP in this regard.
12. Also, I have had regard to the evidence submitted on behalf of the appellant that, other than for a temporary period, the appeal premises have been vacant since January 2013. The unit is long and thin, with a narrow street frontage to Vicar Street. Its unusual shape and limited frontage could be a reason for the apparent lack of demand for this unit when compared to the larger shop units in the area. Given the length of time that this unit has remained vacant and having regard to the number of other vacant retail units in the area, I have to conclude that dismissing the appeal is unlikely to secure any long-term A1 use of the appeal premises. I therefore attach significant weight to returning one empty unit into use.
13. Criterion 2.iv) of SAPLP Policy SAL.GPB2 requires that proposals in Primary Shopping Frontage areas provide an active frontage and are open for business during the day. The appellant has confirmed that the proposed amusement centre would have a shop front designed to be attractive to customers. It would be open during the day and into the evening.
14. Based on all I have seen and read, I conclude that in this particular case, the proposed loss of a retail unit in this location would be acceptable and would not cause material harm to the vitality and viability of Kidderminster town centre. Whilst there is some conflict with Policy SAL.GPB2 of the SAPLP and Policy KCA.GPB2 of the KCAAP in respect of the proposed use, the proposal complies with criteria 2.i. – 2.iv. of Policy SAL.GPB2 which seek, amongst other things, to ensure that the scale and type of development in Primary Shopping Frontages is directly related to the role and function of the area and would not result in an adverse cluster and over-concentration of non A1 uses.
15. Furthermore, the proposal would accord with guidance in Section 7 of the National Planning Policy Framework which is concerned with the vitality of town centres, and requires planning policies and decisions to take a positive approach to their growth, management and adaptation.

Conditions

16. In addition to the standard time limit and plans conditions, the Council has suggested a condition requiring samples of the materials of the proposed smoking shelter to be submitted and approved. Given that the proposed shelter at the back of the shop unit would be visible from the public domain, I agree that such a condition is necessary to ensure the development has a satisfactory appearance.
17. The Council has also suggested conditions requiring secure cycle storage to meet the requirements of its Streetscape Design Guide and the provision of a network of CCTV cameras. I have not been provided with details of any

relevant policies concerning these matters or the design guide to support such a requirement and therefore their justification is unclear. As such, I am not satisfied that these conditions would be necessary or reasonable.

18. The appellant has suggested a condition requiring that the premises maintain a window display. The proposal includes a window display in order to attract customers, and even without this, the vitality and viability of the centre would not be undermined. Also, no information has been provided to show that restricting the use to 'amusement only' machines as suggested by the appellant is necessary. Therefore, I consider conditions of this nature are not required.
19. Worcestershire Public Health have suggested a condition restricting opening hours to between 10:00 and 23:00 to mitigate any adverse effects relating to crime and anti-social behaviour. However, neither the Council or the appellant have commented on the proposed hours of operation and I do not have any evidence to suggest that this condition is necessary.

Conclusion

20. For the reasons given, I conclude that the appeal be allowed subject to the conditions.

R Morgan

INSPECTOR

Costs Decision

Site visit made on 12 March 2020

by **R Morgan MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Costs application in relation to Appeal Ref: APP/R1845/W/19/3242723 25 Vicar Street, Kidderminster DY10 1DA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Shipleys for a full award of costs against Wyre Forest District Council.
- The appeal was against the refusal of planning permission for change of use from retail (class A1) to amusement centre (adult gaming centre) and construction of a smoking shelter to the rear.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Guidance sets out examples of substantive behaviour by local planning authorities which may give rise to an award of costs¹. The appellant asserts that in this case, the following are relevant: (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (ii) failure to produce evidence to substantiate each reason for refusal on appeal; (iii) vague generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. In its decision notice, the Council referred to Policy SAL.GPB2 of the Site Allocations and Local Plan and KCA.GPB2 of the Kidderminster Central Area Action Plan. As set out in my appeal decision, I have found that, although the proposal would comply with criteria 2.i – 2.iv. of Policy SAL.GPB2 regarding development in Primary Shopping Frontage areas, the policies do not provide for the specific use proposed in these areas, and in this regard there would be conflict. However, having considered the particular circumstances of the case, I concluded that the proposed loss of a retail unit would not cause material harm to the vitality and viability of the town centre, and on that basis, the appeal was allowed.

¹ PPG Paragraph: 049 Reference ID: 16-049-20140306

5. Given that there would be conflict with the development plan, it is not the case that the development should clearly have been permitted. Conflict with the development plan provided reasonable grounds for the Council to have refused planning permission. Furthermore, the evidence provided in the planning officer's report and the Council's statement was sufficient to explain the reasoning behind the decision, which was supported by reference to the relevant policies.
6. The Council made reference to third party representations in its officer report and statement. This included consideration of issues including health and crime, which are legitimate planning matters. Whilst I agree that specific evidence was not provided about the potential impacts of the proposal in relation to these concerns, the Council did not rely on these matters in their reasons for refusal. As such, it was not necessary to provide such information to substantiate the decision.
7. I conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is not justified and the application for costs is refused.

R Morgan

INSPECTOR



Appeal Decision

by **Richard S Jones BA(Hons) BTP MRTPI**

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

Decision date: 23 April 2020

Appeal Ref: APP/R1845/X/19/3227384

Hodge Hill Farm Barns, The Granary, Birmingham Road, Kidderminster, DY10 3NS

- 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 Giles and Mrs Michelle Smith against the decision of Wyre Forest District Council.
- The application ref: 19/0056/CERTE, dated 29 January 2019, was refused by notice dated 19 February 2019.
- The application was made under section 191(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 lawful use of caravan for human habitation.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appellants' names from the appeal form. The application for an LDC was made in the name of Mr and Mrs Roy Smith, but it appears that Mr Roy Smith is the appellants' agent. Earlier proceedings described further below indicate that Mr Giles and Mrs Michelle Smith live at the appeal property.
3. I was scheduled to visit the appeal site on 24 March 2019 but could not do so given advice then in place to avoid non-essential travel in order to combat the spread of coronavirus and Covid-19. I wrote to the parties to advise that, since the appeal only concerns matters of lawfulness, I did not need to see the site in order to reach a decision. The parties did not object, and I am satisfied that neither has been prejudiced in my making a decision on the papers.

Planning History

4. On 15 November 2016, the Council issued an enforcement notice alleging the erection of a single storey orangery/garden room and decking within the curtilage of the dwellinghouse at The Granary, Barn 3, Hodge Hill Farm Barns. This appeal concerns the same property, as shown by the plans attached to the enforcement notice and submitted with the LDC application.
5. Appeals made by the appellants against the notice were dismissed on 19 June 2017¹; I shall refer to the 'enforcement appeals [decision]'. The notice required the demolition of the orangery/garden room, and the removal of all materials resulting from the demolition, plus the removal of the decking from the land

¹ APP/R1845/C/16/3165263 and APP/R1845/C/16/3165264

within three months. That period for compliance would have commenced with the date of the enforcement appeals decision.

6. I understand that the Council sought to prosecute for non-compliance with the notice, and so the alleged orangery was then removed from the site. Any matters relating to the court proceeding are outside of my remit.

The LDC Application/Appeal

7. The enforcement appeals were made under s174(2)(c) of the 1990 Act, meaning that the matter for the then appointed Inspector to determine was whether the erection of a single storey orangery/garden room and decking was in breach of planning control. The appellants' case was that the structure described by the Council as an orangery was not a building but a caravan². The Inspector disagreed, finding that a building had been constructed and it required planning permission.
8. The appellants have since not only moved the structure from the site, but also modified it, such that they now consider it to be a caravan which could be returned to the property and lawfully stationed for domestic use.
9. I have seen correspondence between the parties and the Planning Inspectorate as to whether this appeal was properly made under s191 for an LDC for an existing use – or whether it should have been made under s192, for an LDC for a proposed use and, if so, whether it can be determined as if it had been made under s192 in the first place. In this case, as set out below, the discussion is academic because I could not grant an LDC for an existing or proposed use.

Main Issue

10. In an LDC appeal, the onus is on the appellants to make their case on the balance of probabilities. The main issue is whether the use of land for stationing a "caravan designed for human habitation" would be lawful.

Reasons

11. As indicated above, the appellant's case is that the structure subject to the Enforcement notice appeals has been modified such that it now has axles and wheels, and it has been fitted with cooking, washing and bathroom facilities, plus areas for sleeping and rest. They say that the structure is thus designed or adapted for human habitation and capable of being moved from one place to another, so that it meets the legal definition of a caravan.
12. The Council refused to grant an LDC firstly on the basis that the structure had already been found to be a building. It is unsurprising that the Council referred back to the enforcement appeals decision, since this LDC application was expressly made with regard to the same structure. I also note that, under s191(2)(b) of the 1990 Act, uses and operations are lawful only if they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
13. However, the enforcement notice could not on its own lead to this appeal being dismissed, because it was directed at building operations – the erection of an orangery – whereas an LDC is sought in respect of a use of land. A use cannot

² The previous Inspector described the alleged orangery as an 'object', to use a neutral term, before finding that it was a building. Similarly I shall use the term 'structure', since that could equally mean a building or caravan.

lawfully take place in any structure which is not itself lawful, but the appellants' case is that the use would take place within something that should be considered as a caravan in law – and the stationing of a caravan is normally undertaken to facilitate a change of use of land. It is therefore necessary for me to address whether the structure is or would be a caravan and whether the existing or proposed use would be lawful.

Is the Structure a Caravan?

14. I shall deal firstly with whether the structure is or would be a "caravan" as defined under s29 of the Caravan Sites and Control of Development Act 1960 or a "twin unit caravan" as defined under s13 of the Caravan Sites Act 1968. For the latter, it must be composed of not more than two sections separately constructed and designed to be assembled on a site. However, the Inspector who made the enforcement appeals decision observed that the structure was assembled on site with far more than two sections. That finding of fact is not changed, and the structure is not made into a caravan, through the addition of more parts, that is, wheels and axles.
15. A structure does not need to be a "caravan" in law in order to not be a building. In the enforcement appeals decision, the Inspector considered the structure in the light of well-established legal tests: size, permanence and physical attachment. She found that the structure was a building on the basis that it had not been moved since its construction, was not likely to be moved, and appeared to be held in place to a degree by the alleged decking.
16. Since the structure has been removed, it is not presently a building on the site. However, the previous Inspector also noted that a structure does not have to be on land for 365 days per year in order to have consequences for the character of the land and thus be considered permanent. The appellants' evidence suggests that, if it is brought back to the site, the structure might then be moved *within* the site, but not that it would be moved on and off the land again.
17. It thus appears to me that, on the balance of probabilities, the structure is not a caravan as a matter of fact and degree.

Is the Existing or Proposed Use Lawful?

18. The appellants have focussed their evidence on whether the structure is a caravan, and in doing so have not made clear what the existing (or proposed) use of the land and structure is or would be. Caravans can be sited, for example, for the permanent residential use of land; or residential use by holiday-makers or farm workers or other prescribed occupiers; or to store things in; or for purposes incidental to some other primary use. Land can also be in use for the storage of caravans.
19. The appellants have described the existing or proposed use as 'domestic' or 'human habitation' but those terms suggest three possibilities in respect of the claimed caravan:
 - Use as additional residential space that could be considered, as a matter of fact and degree, as part and parcel of the existing dwellinghouse³; or

³ Such that there is no material change of use which requires planning permission.

- Use for purposes incidental to the use of the existing dwellinghouse⁴; or
 - Use as a self-contained residential unit that is separate from the existing use of the dwellinghouse.
20. Without clarity on the nature of the existing or proposed use, I cannot reasonably conclude that the case for an LDC has been made. That is enough for the appeal to fail, but I would also say that such evidence as has been given by the appellants indicates that the use would not be lawful on the balance of probabilities; they have stressed that the structure is fitted out so that *'it is not dependant on the adjacent house for its use for human habitation'*. They may have made that statement merely to show that the structure is capable of being a caravan, but it could also be reasonably taken as suggesting that the structure would be stationed for residential use that is wholly separate to the residential use of the dwellinghouse.
21. For the avoidance of doubt, the subdivision of an existing residential planning unit to create two residential properties is normally a material change of use. The appellants have not therefore shown that the stationing of the claimed caravan for domestic use did not or would not represent a material change of use of the land which requires planning permission. They have also not shown that the existing or proposed use subject to this appeal might be lawful because planning permission has already been granted.

Conclusion

22. I conclude that the appellants have not demonstrated that the structure to be stationed on the land would be a caravan, or that the use for which an LDC is sought, that is, domestic use or human habitation of a caravan, was or would have been lawful on the date of the LDC application on the balance of probabilities. It follows that the Council's refusal to grant a certificate of lawful use or development in respect of 'caravan for human habitation' was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act as amended.
23. For completeness, I will add that it would have made no difference to the outcome of this appeal if the structure had very obviously been a caravan. The central question would still have been the lawfulness of the use for which the caravan is or would be stationed.

Richard S Jones

INSPECTOR

⁴ An incidental use is one that is not part and parcel of but is functionally related in some normal way to the primary use of a planning unit. Under s55(2)(d) of the 1990 Act, the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such is exempted from the definition of development. Article 3 and Schedule 2, Part 1, Class E of the *Town and Country Planning (General Permitted Development) (England) Order 2015* grants planning permission, subject to conditions and limitations, for the provision within the curtilage of the dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse as such – although local authorities can withdraw 'permitted development' rights by various means.