

Case Name: *St. Anne's Court Dorset Ltd v Secretary of State for Housing, Communities and Local Government & Anor* [2021] EWHC 2954 (QB) (04 November 2021)

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Commentary: This is a claim made under section 288 of the Town and Country Planning Act 1990 ("the 1990 Act"). The Claimant (St Anne's Court Dorset Ltd) sought to challenge a decision of a planning inspector appointed by the First Defendant (Secretary of State) given by decision letter dated 12th January 2021. In that letter, the inspector dismissed the Claimant's appeal under section 195 of the 1990 Act against a refusal of Dorset Council to grant a lawful development certificate under section 192 of the 1990 Act in respect of use at land Horton, Dorset ("the Site") for the stationing of static caravans for the purposes of human habitation. The s288 challenge was rejected in the Court.

The main issue raised by this claim is whether the inspector erred in law in interpreting the planning permission with the description of development including use for "touring caravans" as limiting the permitted use, when there was no condition imposing such a restriction. Relying on *I'm Your Man v Secretary of State for the Environment* (1999) 77 P&CR 251, the Claimant argued that because there was not such a condition imposing a limitation on the interpretation of "touring caravans", this could include use of "static caravans" or "mobile homes".

The original planning permission was granted in 1980 for a "site for use for Touring Caravans". A certificate of lawful use was granted in April 2016 confirming use for touring caravans and one mobile home for residential use in connection with the day to day operation of the site as a touring caravan park (this was based on the existing lawful use for at least 10 years).

In September 2018 the Claimant applied for a second certificate of lawful use, to confirm use of the site "for the stationing of caravans for human habitation (a caravan site)". East Dorset District Council (the relevant authority at the time) refused the application and the Claimant appealed under s195 Town and Country Planning Act 1990. The inspector refused the appeal in February 2020.

The inspector found that one of the conditions on the permission (condition 4) prohibited the use of touring caravans on the site being used as permanent residential units. The certificate of lawful use which allowed the mobile home to be used for residential use did not breach that condition 4 because that condition 4 applied to touring caravans (not mobile homes, otherwise known as static caravans, and the use of one for human habitation was allowed by the certificate).

The main issue related to the terms of the certificate and whether the "unfettered stationing of mobile homes for human habitation" would amount to a material change

of use. The unfettered stationing of touring caravans for human habitation would amount to a material change of use, but the certificate specifies a 'mobile home'. The certificate only specifies one mobile home so it would be a change of use if there were multiple mobile homes / static caravans on the site, being used for human habitation. This kind of change of use and intensification would not be one that was permitted by the permission or the certificate.

The challenge therefore failed and the Council's decision to refuse the second certificate of lawful use was upheld.

Case summary prepared by Lucy Morton