

Case Name: *Best Holdings (UK) Ltd (T/A Wyldecrest Parks) v Secretary of State for Levelling Up, Housing and Communities & Anor* [2023] EWHC 492 (Admin) (09 March 2023)

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Commentary: This was a renewal application for permission to bring a statutory review under section 288 of the Town and Country Planning Act 1990 in respect of a planning inspector's decision to dismiss an appeal brought by the Claimant against the refusal of the Second Defendant to grant a certificate of lawful development.

The Claimant had sought a certificate of lawful development for "the proposed stationing of up to 5 caravans for all year round residential occupation and up to 25 caravans for residential occupation during the period 1 March and 30 November each year." This application was refused by the Second Defendant and the Claimant appealed this refusal to the Planning Inspectorate.

By way of factual background, there already existed for the site a certificate of lawful existing development granted in 2018 for the "use of land as a caravan site... for the all year round residential occupation of not more than 2 caravans... and for residential occupation of not more than 25 caravans during the period of 1 April to 31 October in any year" ("the 2018 LDC").

The Claimant sought permission to bring the statutory challenge on three grounds:

1. The Inspector appointed by the Secretary of State reached a conclusion that the existing use of the site was a mixed use and consequently a material change from the use certified in the 2018 LDC.
2. The Inspector's handling of the appeal was procedurally unfair.
3. There was an error law, namely a failure to give adequate reasons and irrationality on the part of the Inspector in reaching his alternative conclusion that there would be a definable change in the character of the use of the land of the site.

In respect of Ground 1 the judge found that the Claimant and Second Defendant were not given the opportunity to make representations to the Inspector on the issue of whether there had been a material change of use from the 2018 LDC.

The judge also found in favour of the Claimant on Ground 2, finding that the Claimant and the Second Defendant were not given the opportunity to make representations on the meaning and scope of the 2018 LDC with respect to the location and siting of the caravans.

Permission to bring the section 288 statutory review was granted on grounds 1 and 2. Ground 3 was not considered as the issues raised were judged to be academic.

Case summary prepared by Amy Penrose