



**Lawful Development Certificate
Section 191 – Existing Use**

Land at Rhododendron Avenue Culverstone Meopham
Kent DA130TT

**Certificate of Existing Lawful Development in
respect to the continued use of land for the
stationing of a residential caravan**

Lorraine Higgs

September 2022

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1.0 Introduction

1.1 This application is made under Section 191 of the Town & Country Planning Act 1990 (as amended) by Lorraine Higgs for a Certificate of Existing Lawful Development for the continued use of land for the stationing of a caravan for residential occupation on land to the north-east of Amankila Rhododendron Avenue Culverstone Meopham Kent DA13 0TT

1.2 In addition to the application form and certificates the following documents are submitted;

Application plans:

- Location Plan
- Planning Statement
- Sworn Declarations by Applicant
- Sworn Declaration by Applicants son
- Correspondence from LPA
- Documentation from Land Registry Tribunal
- Correspondence from witnesses to Tribunal

2.0 Site and its Surroundings

2.1 The land is roughly rectangular in shape accessed via a narrow roadway on the eastern side of Rhododendron Avenue immediately to the north of Distarti. It is located approximately 250m north of the junction of Rhododendron Avenue with Meadow Lane and Beechwood Drive. It is a largely an unworked area of deciduous woodland with a number of cleared areas. Within the centre of the site is a large concrete plinth that is understood to have been occupied by a nissen hut used for ammunition storage during WWII. There is also a cleared area used by the occupier of the caravan as an outdoor eating and amenity area. The existing caravan is located in the SE corner of the site immediately adjacent to the property Amankila which is owned by the applicant. It is a 'standard' touring caravan (See Document A) which is connected to its own water supply and electricity via meters within Amankila. The caravan was occupied by the applicant's son until 2021 when he vacated following his purchase of a property in Rochester. Although currently unoccupied at present this is largely due to the need to refurbish and upgrade the unit which has been delayed largely due to impact of covid and the unprecedented rise in the cost of building materials.

There has never been any intention to abandon the residential use and will be re-let once the refurbishment is completed.

2.2 The site, known as Title TT134110, has been occupied and maintained by the appellant since her purchase of Amankila, the adjoining plot, in 1997. The plot was 'unregister' and abandoned but was used by the applicant and her family for recreational purposes and for the collection for fallen timber for fuel purposes. At that time the site could only be accessed via Amankila.

2.3 Between 2007 & 2008 the applicant and her husband undertook works to fence and enclose the land and created the access to Rhododendron Avenue. The application caravan was brought onto the site and was located on a concrete plinth. Pathways were created within the woodland and the site was provided with electrical lighting. A padlocked field gate was provided to the Rhododendron Avenue frontage and the applicant and her family had full adverse possession of the site.

2.4 The caravan was fitted with all the facilities for daily residential occupation, (in accord with the Gravesham Case law 1997) and was occupied by the applicants son [REDACTED] from the Autumn of 2008 until mid 2021. The caravan was regularly refurbished and improved during her son's occupation.

2.5 When the caravan was first brought to the site the Culverstone Valley Area (CVA), as it was known, was regularly visited by the Council because of its plot-land status. It was in April 2008 that the caravan first became aware to the Council's Enforcement team, who wrote to the applicant advising that the caravan was unauthorised and required the benefit of planning permission.. This was followed by letter in July, August and September 2008 saying that enforcement proceeding would be instigated unless the residential occupation ceased. The residential occupation continued but no further action was taken by the Council to the applicant's knowledge.

2.6 In 2018 the applicant sought to register the land by way of Adverse Possession. In May 2019 the Ordnance Survey undertook a survey as there had been an objection to the claim and their subsequent report to the Land Tribunal

noted that the caravan was occupied. The Land tribunal judge heard evidence from the applicant, her son and other witnesses and he accepted the facts presents as being the truth but adverse possession could not be granted. As 12 yrs occupation had not been achieved. A further application was made in December 2021 and adverse possession was granted in March 2022.

2.7 It was at this point BarronEdwards were contacted to prepare this application for a Certificate of Existing Lawful Development for the continuing use of the land for the stationing of a caravan for residential occupation.



3.0 Evidence

a) Council Correspondence (EN/78/78)

3.1 The existence of the caravan first came to the Council's attention in April 2008 who wrote advising the it was located on an 'unauthorised plot' and would require the benefit of planning permission even if the land formed part of the curtilage of Amankila. The Council wrote again in July 2008 stating that it had no record of the requested application to regularise matters having been submitted.

3.2 The applicant responded by email on 19 August 2008 and the council responded on 20 August stating that the intended use was contrary Policy C14 of the Council Local Plan relating to the Culverstone Valley Area (CVA) and that the caravan was to be removed in 14 days. The applicant responded on by email on 17 September 2008 but was advised by letter on 18 September that the only solution was to remove the caravan. The letter stated that if it was not removed by 29 September 2008 then the Council would instigate enforcement proceedings by way of Enforcement Notice.

3.3 The caravan was not removed and was occupied by the applicant's son, [REDACTED] as a residential dwelling. There are no indications that an Enforcement Notice was ever served and the use became lawful by the passage of time in 2018.

SEE DOCUMENT 6.

b) Land Registry Documentation (May 2019) :

3. 4 This comprises of 3 documents and accompanied the applicants claim for adverse possession of the site—

- 1) A survey site plan showing features on the site and direction of photograph views (Document 8)
- 2) A land Registry Report detailing the features outlined on the survey plan. (Document 9)
- 3) Annotated photographs as referenced to the survey and report (Document 7)

3.5 These documents give a clear indication of the site as at May 2019 with clear indication that the situation had been like that for '20+' years.

c) Statutory Declaration by the Applicant

3.5 This is a Statutory Declaration made by Lorraine Higgs dated 23 August 2022 sworn before Manak Solicitors at their Sevenoaks office. It itemises her history with the site since May 1997 when she purchased the adjoining plot known as Amankila. She started her claim for the Adverse Possession of the application site (title 134110) which 'dragged' on for many years resulting in a Court Land Tribunal in 2018. She confirms that in 2006 access to the site was achieved via Amankila with a second vehicular access from Rhododendron Avenue via a padlocked field gate

3.6 She outlines the improvements she made during the period 2006 – 2008 including the brining of the caravan to the site which was when it was picked up by the council. It was at this time her son, [REDACTED] moved into the caravan as his permanent residence. It was fitted out with all the requirements for day to day living in accord with the Gravesham principle. Her son lived there until March 2021, totally separate from Amankila, until March 2021. [REDACTED] has provided his own Statutory Declaration and there is substantive evidence of his occupation in the Land Tribunal documentation.

SEE DOCUMENT 11 with the information requested when the applicant instructed BarronEdwards.(Document 1)

d) Statutory Declaration by [REDACTED]

3.7 [REDACTED] confirms that he moved into the caravan as his own personal residence rather than an annexe to Amankila. It was his 'own space' and did not share meals etc with his parents and siblings in the residential mobile home on Amankila. He confirms that he enjoyed having his own independence. More of Toby's occupation can be found in the Tribunal documents.

e) Land Registry Title Deeds:

3.8 These documents (DOCUMENTS 2,3,& 4) show the site the subject of the Certificate application is owned by Lorraine Higgs and no other. She is entitled to sign Certificate A.

f) Evidence submitted to Land Tribunal case (2020/0531/0532)

3.9 Statement of case made by the applicant, Lorraine Elizabeth Higgs, in respect to the claim for Possessory Title to the application site made before Judge Paton on 25/26 November 2021. It contains the whole history of the applicants involvement with the site since 1997 – it is a complete chronology of the site. The document (document 15) is a lengthy but detailed statement,

including her son's occupation of the caravan, that was presented to the Court. We are satisfied that this contains all the evidence required to substantiate the occupation of the caravan as a separate dwelling with all the day to day facilities for everyday living.

3.10 As part of the evidence at the Tribunal is Lorraine Higgs rebuttal of the evidence presented by objections to her claim for Possessory Title (Document 14}. This included a statement that from 2008 her son [REDACTED] occupied the caravan as his 'own dwelling'.

g) Decision of Judge Paton on the Land Tribunal Case:

3.11 In his decision dated 16 December 2021 Judge Paton accepted the evidence given by Lorraine Higgs to, and her 'supporters' to be whole truthful was honest, truthful and given in good faith. He accepted fully accepted the evidence presented by [REDACTED] regarding the occupation of the caravan as his 'own home'. He also accepted the evidence of [REDACTED] and [REDACTED] in respect to [REDACTED] occupation of the caravan.

h) Evidence given to Tribunal (Witness Statements)

3.12 Lara Leysey – Sister of Toby Davis . She confirms that her brother used to live in the caravan since 2006 independently from the rest of the family who lived in Amankila.

3.13 [REDACTED] – grandfather of [REDACTED] Confirms that [REDACTED] lived in the caravan on the land.

3.14 [REDACTED] – confirms her mother's the possessory tile of the land

3.15 [REDACTED] Confirms that Lorraine Higgs is the sole owner of the land accessed from Rhododendron Avenue and via Amankila. He confirms that a caravan on the [REDACTED] site was occupied by her son [REDACTED] who paid his mother rent to live in the caravan independently from the family home.

4.0 Conclusion

4.1 We are satisfied that the submitted documentation, particularly the statutory declarations and evidence given to the Land Tribunal and the Judge's decision give clear evidence of the occupation of the caravan on the land y [REDACTED] [REDACTED] as a self-contained residential dwelling independent of the family home at Amankila. It has all the facilities require for day to day living including kitchen

and toilet facilities. It was known by the Council to be occupied following investigations it undertook in 2008 and, despite warnings that the caravan should be removed and its occupation ceased, no formal action was ever taken. It is our contention that the stationing of the caravan has now become lawful as has its residential occupation.

4.2 It is acknowledged that the Council may perceive the caravan as an 'annexe' to the accommodation at Amankila. However this is not the case and was independently occupied as a self-contained unit by [REDACTED] who only periodically went to Amankila for meals on special occasions.

4.3 Whilst it is accepted that the caravan is currently unoccupied there is no intention to abandon its residential use and is in the process of being refurbished prior to its re-letting. This has been delayed due primarily to the covid pandemic and the [REDACTED] However works are now due to recommence in the near future.

James Barron BA(Hons) DipTP MRTPI