

Appeal Decision

Site Inspection on 6 March 2017

by Graham Self MA MSc FRTPI

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

Decision date: 20 March 2017

Appeal Reference APP/N1730/X/16/3160924

Site at: Bramble Cottage, Hulfords Lane, Hartley Wintney, Hampshire RG27 8AG

- The appeal is made by Mr David Cooper under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the refusal by Hart District Council to grant a certificate of lawfulness.
- The application (Reference No. 16/00042/LDC) was dated 8 January 2016. A refusal notice was issued by the council in April 2016 (see "Procedural and Legal Matters" below).
- The application was made under Section 191 of the Town and Country Planning Act 1990 as amended.
- The application sought a certificate of lawfulness for: "Use of caravan with extension as a dwellinghouse. Re-submission of application reference 15/00690/LDC".

Summary of Decision: The appeal fails.

Procedural and Legal Matters

1. According to the copy of the District Council's refusal notice submitted for the appellant, the notice was undated and unsigned. The refusal decision appears to have been sent to the then applicant's agent (Mr Haran) with a covering letter dated 13 April 2016. The covering letter was also unsigned.
2. Although the date of the council's refusal decision might be implied from the date of the covering letter, the decision notice itself should contain a date to be valid. The council's "decision" also appears to have been made outside the prescribed period, and there is no evidence that the applicant agreed in writing to an extension of time. In the circumstances I have decided to treat this case as an appeal against the council's failure to determine the application. This means that the appeal is being treated as if it had been made under Section 195(1)(b) of the 1990 Act, instead of Section 195(1)(a).

Reasons

3. For the purposes of planning law, a "dwellinghouse" involves both a physical or structural concept and a use of land. The phrase used in the application subject to this appeal - "use of caravan with extension as dwellinghouse" - is contradictory, since a caravan is not a dwellinghouse. What the appeal seems really to be claiming is that what was at one time a caravan has, when combined with the extension, become a dwellinghouse.

4. The council's statement and the reason for refusal of the certificate application also show confusion. The council contend that the caravan retains its mobility and does not constitute a building, therefore it is not a dwelling. That is nonsense - a caravan can be a *dwelling*, as can be a tent or a cave, and numerous caravans around the country are dwellings. The council are muddling the different terms *dwelling* and *dwellinghouse*.
5. I noted during my inspection that the caravan rests on its retractable supporting legs. The wheels and tyres appear to have been removed or have perished. The brick-walled structure abuts one side of the caravan and the join between this structure and the caravan is sealed with mastic, although I could not see any bolts or other means of fixture between the structure and the caravan. The structure has a concrete floor, with a raised area next to the door of the caravan. This structure forms in effect a large porch which seems to be partly used as a utility area.
6. An engineer's report submitted as part of the appellant's case indicates that in the engineer's opinion it would be impossible to move the mobile home without causing significant damage to it, and that the deflated and perished tyres would prevent it being manoeuvred. However, as the council point out, the report lacks detail. During my inspection I could not see anything to indicate that the body of the caravan was so structurally unsound that it could not be lifted on to a transporter vehicle or refitted with wheels and tyres so that it could be dragged. The chassis of the caravan appeared to be complete, and nothing in the engineer's report indicates otherwise. There does not appear to be any reason why the caravan could not be detached from the adjacent structure. The caravan is apparently connected to services such as water, electricity and foul drainage, but this applies to many caravans and these links could be disconnected. The fact that some damage might occur if it were to be moved does not mean that the caravan has to be treated as a building.
7. I note that the caravan is referred to as a "mobile home" (not as a "building" or "structure" or "dwellinghouse") by the engineer engaged by Mr Cooper. In this respect the engineer's description undermines his client's case, and I consider the engineer to be correct. In summary, the caravan is a caravan, not a dwellinghouse. The fact that a structure has been erected next to it does not convert the caravan into a dwellinghouse for the purposes of planning law. Although there are flaws in the council's case, I conclude that if the council's refusal to grant a certificate of lawfulness had been issued as a valid decision, it would have been well founded.

Formal Decision

8. I dismiss the appeal and refuse to grant the certificate of lawfulness applied for by application reference 16/00042/LDC dated 8 January 2016.

G F Self

Inspector