



Appeal Decision

Site visit made on 13 January 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/U1105/X/19/3224975

Pugh's Farm, Road from Ford Cross to Aplins Farm Cross, Monkton, Honiton EX14 9QH

- 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 & Mrs Dawes against the decision of East Devon District Council.
 - The application Ref 18/2116/CPE, dated 10 September 2018, was refused by notice dated 4 January 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 described as: Existing Use of 1 no. residential unit on land at Pugh's Farm, EX14 9QH
-

Summary of Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal concerns the lawfulness or otherwise of a caravan and surrounding land. The parties are however content that the appeal can proceed by the written representation procedure. I have no reason to disagree with the parties and so will proceed to determine the appeal on the basis of the written evidence before me.

Main Issue

3. The main issue is whether the Council's decision to refuse a certificate of lawfulness for the residential use of a caravan as an independent unit of accommodation, including the use of land identified by the appellants, is well founded.

Reasons

4. In cases such as this the onus is on the appellant to demonstrate, on the balance of probabilities, that the residential use of the caravan as an independent unit of accommodation, including the use of land identified by the appellant, has subsisted for a period of 10 years prior to the submission of the certificate of lawfulness.
5. The Council is satisfied that there is sufficient evidence to demonstrate that there has been a caravan on the land for a period in excess of 10 years, albeit

- only for uses ancillary or incidental to the residential use of Pugh's Farm. It is indicated in the Officer's delegated report that a certificate to this effect was to be issued. This is also to say that the Council was satisfied that the caravan was situated within the residential planning unit of Pugh's Farm.
6. The site location plan identifies a large parcel of land with the caravan located in the southern corner. I could see during my site visit that the land identified follows boundary treatments of the site. However, some of the fences and planting appeared to be more recently established and I also note that not all of these are evident in aerial photographs that have been provided by the parties, including those provided by the Council which are said to be dated 4 May 2010 and 8 September 2014 respectively.
 7. The appellants evidence concerning the use of the identified parcel of land is very limited. Whilst the caravan had to be accessed, and this may have been by a vehicle, I note that there is only limited hardstanding to provide access to the caravan and it is situated at the top of the site which is quite steeply inclined. The only physical evidence of use of an outside area is contained within the immediate environs of the caravan where there is a small partially fenced-off area. However, there remains very little evidence to attest as to when this area was constructed and the continuity of any use.
 8. The appeal application was however principally submitted to establish the independent residential use of the caravan. To this effect a statutory declaration has been provided by Jamie Dawes, the son of the appellants. This states that he occupied the caravan from 1 December 2006 until July 2013 on a full-time basis as his only residence. It is also stated to be completely self-contained and connected to mains water and electricity. Furthermore, rent was stated to be paid and he was registered as a resident with the Royal Mail and on the Electoral Roll.
 9. Whilst the caravan is self-contained, which I was able to observe during my site visit, the statutory declaration does not sufficiently evidence the actual use or occupation by the appellant's son. Given the caravan is within the accepted residential planning unit of Pugh's Farm, it could have been occupied on an incidental or ancillary basis, with some reliance on the farmhouse. This might have been akin to an annexe, noting the absence of separating boundary treatments and access during much of his occupation, even though the caravan was said to be his only residence.
 10. That the occupation between 2006 and 2013 only amounted to an incidental or ancillary use was raised by the Council in both its delegated report and appeal statement and the appellant has provided little in the way of response or evidential clarification. The statutory declaration is therefore not sufficiently precise in this regard and there is no other evidence concerning rental payments. Furthermore, it is stated that since July 2013 he has resided in the farmhouse, which given he is a relative of the appellant's, adds to the ambiguity surrounding his occupation of the caravan and thus whether it was indeed independent.
 11. Moving forwards there is then a letter from the appellant to a hotel, dated 13 July 2013, indicating the availability of the caravan from the beginning of August 2013. The evidence is that the caravan was occupied by two chefs and copies from a rent-book indicate that rental payments for this occupation were made until November 2013.

12. On 1 December 2013 the caravan was rented to an anonymous tenant, although rent was only paid from June 2014. This is evidenced by the Statutory Declaration of Kevin Linsdell, who is the appellant's accountant, and there is also a copy of an assured shorthold tenancy agreement. A signed letter from the appellant's, dated 26 August 2018, advises that this tenant vacated the caravan in May 2018 having been in continuous residency since December 2013.
13. There is very limited evidence before me concerning the occupation of the caravan from May 2018 until the date of the appeal application.
14. There are letters from nearby residents advising that the caravan has always had a tenant, albeit these are very brief and lack any detail as to the precise nature of the occupancy. I also appreciate the Council has no evidence to directly dispute the appellant's versions of events. Nevertheless, it remains the case that the appellant's own evidence needs to be sufficiently precise and unambiguous to justify the grant of a certificate.
15. I am satisfied on the balance of probabilities that the evidence supports the independent occupation of the caravan between August 2013 and May 2018. I am however not satisfied on the balance of probabilities, for the reasons stated, that the appellant has demonstrated the continuous independent occupation of the caravan for the relevant period of 10 years or indeed the associated use of land.

Conclusion

16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the residential use of the caravan as an independent unit of accommodation, including the use of land identified by the appellants, was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

17. The appeal is dismissed.

Paul T Hocking

INSPECTOR