



Appeal Decision

Site visit made on 18 February 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2020

Appeal Ref: APP/V2635/X/19/3229884

Oldfield Farm, The Green, Thornham PE36 6NH

- 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 and Mrs David and Patricia Thompson against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00039/LDP, dated 7 January 2019, was refused by notice dated 20 March 2019.
 - The application was made under section 192(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 Siting of a twin unit caravan for ancillary residential use.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs David and Patricia Thompson against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. I have given the description of development above, which I consider to be accurate, by reference to the Council's decision notice and the appeal form.

Main Issues

4. Whether it is correct to regard the proposal as falling within the definition of a caravan and if so whether it should be regarded as ancillary accommodation to the main dwelling, such that a material change of use of land is not involved.

Reasons

5. The Caravan Sites Act 1968 (CSA) defines a twin-unit caravan as a structure designed or adapted for human habitation and which would essentially meet the specific limitations of construction, size and mobility tests.

The 'Construction Test'

6. The CSA sets out that that structure should be composed of not more than two sections, separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices. There is no dispute between the parties that the proposal would conform with this test.

The 'Size Test'

7. The CSA as amended sets out that to be regarded as a caravan, the dimensions of the structure shall not exceed 20 metres in length, 6.8 metres in width, with a maximum internal floor to ceiling height of living accommodation not exceeding 3.05 metres.
8. Whilst the Council accept that the aforementioned dimensions should not normally include eaves and guttering, it cites a previous appeal decision (Mid-Sussex 21/02/1996) in support of the proposition that exaggerated eaves overhanging a porch or veranda might lead to a different assessment. It does not dispute that the length of the proposed unit, when taking into account the eaves overhang, would continue to fall within the prescribed dimensions, or that it would comply with the requisite internal dimensions. However with regard to width, it considers the structure to have such exaggerated overhanging details, including a dormer over the door, such that the limitation would be exceeded by some 0.6 metres.
9. It is undisputed that the dimensions of the proposed structure between external walls would be in keeping with the aforementioned limitations. Having regard to the appellants' drawings, submitted in support of the application, it is apparent that in terms of its width, the eaves together with a dormer peak above the external front entrance, would overhang the front and rear elevations of the structure to a degree. However I am firmly of the view that the degree of overhang in this case would be no more than modest and would not appear unusually disproportionate. Nor, from the information before me, is there a porch or veranda proposed, therefore distinguishing it from the aforementioned case. I conclude that the degree of overhang would not be exaggerated and that the size test would be met.

The 'Mobility Test'

10. This requirement states that the structure is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), excepting that not being lawfully able to move the structure on a road, when fully assembled, would not discount its status as a caravan. The test is therefore one of the capability in principle, rather than legality, of movement.
11. In this regard the appellants claim that it would be possible to tow the structure or to hoist it onto a vehicle, using lifting beams, ready for transportation. However, the structure when fully assembled is large and bulky. I have been provided with no technical evidence, with the exception of what appears to be a generic photograph of a caravan attached to a vehicle by tow bar, to support this claim and to dispel any concerns about the structure breaking apart when lifted or moved in this way. Rather, it appears that I am being asked to rely on assertion.

12. Furthermore, I accept that the structure could be positioned in one place for a considerable period of time, whilst still being regarded as a caravan. However the appeal site currently comprises a vegetable garden and bare earth. Whilst I acknowledge that permitted development rights may be available to allow the construction of hardstanding, I have been provided with no detail as to how it is actually proposed to secure the structure in position, with a view to determining whether any operational development requiring planning permission would be involved.
13. The appellants have referred me to several planning appeal decisions in support of their case. However I am not persuaded that any of these decisions specifically say that a technical assessment of mobility is unnecessary, before granting an LDC. In particular I note that in specific cases, the relevant Inspector was provided with a structural integrity and craning method statement¹; photographs of the units being lifted²; or the appellant's position that the units were movable, not being contradicted³. Whilst in a different case, it would appear that the Inspector accepted a statement from the appellant that the unit could be moved in one section, she found that the proposal was described with clarity and precision⁴. Furthermore it is unclear whether the structure in that case was similarly constructed to the current proposal. In other cases presented the onus was on the appellants to demonstrate that what was being proposed was a building and not a caravan, therefore in contrast to the present case⁵.
14. These cases therefore appear to be distinguished from the current appeal. By contrast the case law cited by the Council⁶ is authority for the position that, in the absence of supporting technical evidence, the conclusion that a structure when assembled would be physically capable of being moved by road, may be challengeable.
15. I am therefore unable to reach the view, on the balance of probability, that the proposed structure would meet the mobility test and, as such, that it would conform with all three of the relevant tests for caravan status.

Relationship to use of main dwelling

16. I turn to the question of whether the proposed structure could be regarded as ancillary to the main dwelling. It would appear from the drawings provided that cooking, washing and sleeping accommodation would be provided such that the necessary facilities for independent day-to-day living would be available. I acknowledge that there is case law indicating that even if the accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling⁷. Rather this would be a matter of fact and degree depending on the circumstances of the case.
17. It is proposed that the structure would be occupied by the appellants' daughter with a view to facilitating the provision of their care in old age. The appellants state that the use of water and electricity services would be shared between

¹ Appeal Ref APP/B5480/C/17/3174314

² Appeal Ref APP/L5810/X/15/3140569

³ Appeal Ref APP/J1915/X/11/2159970

⁴ Appeal Ref APP/Q1445/X/16/3162334

⁵ Appeal Refs APP/ K3605/X/11/2147586 & APP/B9506/X/19/3221099

⁶ Bury Metropolitan Council v SSCLG 12/08/2011

⁷ Uttlesford D.C. v Secretary of State for the Environment & White 1991

the two properties. The Council, whilst finding the principle of the use to be unacceptable, does not specifically say that it is opposed to the amount of accommodation proposed in its own right. The structure would be situated as part of a relatively tight cluster of units adjacent to existing workshop and storage buildings, associated with the main dwelling. A short length of tarmac driveway would separate the proposed structure from the dwelling, with both being served by a single vehicular access point from the main road to the front of the property, and not separated by any distinct boundary enclosure. The physical relationship with the main dwelling would, in my view, be conducive to shared living activity.

18. To my mind, the aforementioned characteristics would give the proposed structure and the main dwelling a close physical and functional relationship. I conclude, therefore, that the proposal would not form a separate planning unit, so long as both it and the main dwelling continued to be occupied by members of the same family. If the proposal was a caravan, a material change of use, in itself requiring planning permission, would not therefore occur. This however does not overcome the aforementioned issue, which leaves me unable to conclude, on the balance of probability, that the proposed structure would be a caravan.
19. Therefore for the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Siting of a twin unit caravan for ancillary residential use at Oldfield Farm, The Green, Thornham PE36 6NH 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.

Roy Merrett

INSPECTOR