



Appeal Decision

Site visit made on 8 September 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2020

Appeal Ref: APP/P2114/X/20/3244603

Park Lodge, Lower Woodside Road, Wootton Bridge PO33 4JH

- 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 T Towill against the decision of Isle of Wight Council.
 - The application Ref 19/01275/CLEUD, dated 18 October 2019, was refused by notice dated 16 December 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: Continued use of building as a dwelling.
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Summary of Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have used the Council's description from its decision notice, which has also been adopted by the appellant on his appeal form. I have however also had full regard to the wording originally provided by the appellant on the application form.
3. The appeal concerns the lawfulness or otherwise of the continued use of a unit of accommodation as a dwelling. The parties are however content that the appeal can proceed by the written representation procedure. I have no reason to disagree and so will proceed to determine the appeal on the basis of the written evidence before me.

Main Issue

4. The main issue is whether the Council's decision to refuse a certificate of lawfulness was well founded.

Reasons

5. In matters such as this the onus is on the appellant to demonstrate his case on the balance of probabilities. This is a legal determination and therefore planning policy considerations or the personal circumstances of the appellant are not relevant.
6. The appeal application was submitted on the basis of the unit of accommodation being a building, however, the Council considers it to be a

- mobile home (a caravan). This has a significant bearing on the period of residential occupation that would need to be demonstrated to acquire lawfulness, being 4 years in respect of the use of a building as a dwelling, or, 10 years in respect of the residential use of a mobile home on land.
7. It is therefore necessary to consider whether the unit of accommodation is a building or mobile home to establish the relevant period.
 8. The appellant accepts that the unit of accommodation was a mobile home. It therefore follows that it accorded with the provisions of the Act¹ in respect of its size, construction and mobility. It is however contended that a planning permission for the retention of a raised deck area² allowed operational development which has been bolted securely and permanently to the mobile home, thereby making the entirety of it a building.
 9. The raised deck area is situated on the front elevation of the unit of accommodation, accessed via steps. In terms of footprint, it is approximately the same size as the original mobile home. The deck is supported on a number of timber posts although the method of affixation into the ground, such as whether they are concreted, is not before me. There is therefore little evidence that the deck is substantially fixed to the ground. Even if it was, the deck is then only attached to the original mobile home by means of bolts, or similar, and simply abuts the unit rather than having any other structural interconnection with it. The deck is therefore a comparatively light-weight accoutrement, but even if it were not, the original mobile home could still be readily detached from it, thus enabling it to be removed and transported.
 10. The raised deck area therefore does not demonstrate as a matter of fact and degree on the balance of probabilities that the unit of accommodation has become a building for planning purposes.
 11. The appellant also contends that the unit of accommodation has been secured to the ground by concrete, chains and braces. However, there is very little evidence before me of the operational development undertaken and it appeared to me, during the course of my site visit, that any physical attachment to the ground was commensurate with merely stabilising a mobile home to the ground.
 12. There is also very little evidence before me as to the age of the mobile home or when it was first stationed in its current location. The latter must have been for a period at least prior to the formation of the raised deck area, which was granted planning permission in 2013. However, the very limited evidence before me does not as a matter of fact and degree on the balance of probabilities demonstrate the permanence of the unit of accommodation, such that it leads me to conclude it is a building.
 13. That the unit of accommodation is said to have been connected to all services is not determinative for the purposes of my assessment as this is not a specific characteristic of a building, given many mobile homes have water, electricity and drainage.
 14. It remains the case that the appellant's own evidence needs to be sufficiently precise and unambiguous to justify the grant of a certificate. Whilst assertions

¹ Caravan Sites and Control of Development Act 1960 as amended

² Council Ref P/01653/12

have been made, I nevertheless conclude on the evidence before me that the appellant has not discharged the necessary burden of proof to demonstrate his case on the balance of probabilities.

15. I therefore find that the unit of accommodation is a mobile home (a caravan) with a raised deck area. A 10-year period of residential occupation would therefore need to be demonstrated in order for a certificate to be granted pertaining to residential use. However, the evidence of the appellant, which includes a Statutory Declaration, is focussed upon a 4-year period, aside from some limited health and personal independence payment correspondence. As the appellant has not sought to demonstrate a 10-year period of residential occupation, and in light of my own findings, I therefore need not consider the evidence of occupation further.

Conclusion

16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use 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