



Appeal Decision

Site visit made on 19 May 2021

by Katie Peerless Dip Arch RIBA

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

Decision date: 27 May 2021

Appeal Ref: APP/X2220/X/20/3245793

Kittington Farm, Kelk Hill, Nonington, Dover CT15 4ET

- 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 Andrew Fox-Pitt against the decision of Dover District Council.
 - The application Ref CLE/DOV/19/01422 dated 14 November 2019, was refused by notice dated 17 January 2020.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is a dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issue in this case is whether the Council's refusal to grant a certificate of lawful use was well founded, with respect to whether the use applied for relates to the stationing of a caravan for residential use or whether the unit of residential accommodation is a dwellinghouse.

Site and surroundings

3. The residential unit is situated within a dilapidated barn which forms part of a larger group of agricultural buildings surrounded by agricultural land. The barn includes a rudimentary washroom and toilet built in blockwork in one corner and, at the time of the site visit, the barn also contained agricultural equipment and vehicles, storage containers, a touring caravan and animal cages and pens.

Reasons

4. The appellant applied for the use of the residential unit in the barn as a dwellinghouse, which, if classified as operational development (i.e. a building) would be lawful if the use had continued uninterrupted for 4 years prior to the date of the application. However, the Council considers that the main structure is a caravan and, if this is correct, a 10 year period of continuous occupation would need to have elapsed before it would become immune from enforcement action. It therefore changed the wording of the application to *'the material change of use from agriculture to a use for the stationing of a caravan for residential occupation'*.

5. S191(4) of the Town and Country Planning Act 1990 allows the LPA to modify the description of the existing use in an application for a LDC. The Secretary of State or Inspector may also exercise this power on appeal.
6. In this case, the Council does not dispute that it is likely that the residential unit within the barn has been occupied continuously since at least September 2015. It submits, however, that the unit is in fact a caravan, rather than a dwelling house and it is the '10 year rule' rather than the '4 year rule' that needs to be applied in this instance. I have been presented with any argument to suggest that the unit has been occupied for 10 years, rather than 4, prior to the date of the application.
7. The term 'caravan' is defined in s29(1) in the Caravan Sites and Control of Development Act 1960 (CSCDA60) as meaning '*any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)*'. The Caravan Sites Act 1968 (CSA68) gives the maximum size for a caravan (that of a twin unit) as being a maximum of 20m long, 6.8m wide and having living accommodation with a maximum internal height of 3.05m.
8. A caravan does not need to be mobile in the sense of being moved on its own wheels and axles to meet the definition, as long as the unit could be picked up intact, including its floor and roof, and put on a lorry by crane or hoist. Whether this transportation could be legally carried out on the public highway is irrelevant, as is the consideration of whether the caravan could be physically transported along the road leading to the site.
9. The fact that wheels, axles or tow bars have been removed will also generally be of no great significance in concluding whether or not a change from a caravan to a building has taken place. However, in order to test whether a unit that has been modified meets the test for buildings, the matters of attachment to the land and permanence need to be considered and can be determinative.
10. In this case, the unit is a standard pre-fabricated single unit mobile home that is commonly found on caravan sites, although the wheels have been removed and two sets of timber steps have been placed adjacent to the unit to give access to its doors. Internally, there is an operational kitchen area with a sink and a bathroom with a functioning toilet. It is attached to mains water and electricity and connected to a foul water drainage system via a plastic soil pipe. In these respects, the unit contains all the facilities required for private day to day living and there is no need to rely on the external washroom to achieve this.
11. However, the unit has a metal sub-frame and legs and is being supported on a series of pads constructed from concrete blocks. It stands about 800mm off the ground and the area beneath it is open. I could see that, as with many units that have been adapted in this way, it could be detached from the services, the blocks and the steps with relative ease and these features do not, in my opinion, afford the unit any real permanence or attachment to the land, such that it could now be considered to be a building.

12. The barn has large openings at each end and I saw nothing that would prevent the unit from being transported off site in one piece, if placed on a lorry or trailer. This is a common way of moving this type of structure after they have been adapted in such a way. Neither would the fact that the unit has been placed within the barn, in itself, prevent it from being placed intact onto a suitable mode of transport.
13. I therefore conclude that the unit is a caravan, as defined in the CSCDA60 and the relevant period for immunity from enforcement is 10 years. The Council was therefore correct to modify the description of the existing use. As noted above, the appellant has not claimed that the caravan has been occupied for this length of time prior to the date of the application.
14. 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 either a dwellinghouse or a material change of use from agriculture to a use for the stationing of a caravan for residential occupation 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.

Katie Peerless

Inspector