



Appeal Decision

Site visit made on 1 June 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 22 June 2021

Appeal Ref: APP/W1525/X/20/3262146

Barracks Field, Waltham Road, Boreham, Chelmsford CM3 3AX

- 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 Mrs Sheila Gauden against the decision of Chelmsford City Council.
 - The application Ref 20/00801/CLEUD, dated 27 May 2020, was refused by notice dated 14 August 2020.
 - 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 use of land for the siting of a replacement mobile home meeting the definition of 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Main Issue

2. The main issue in this appeal is whether the Council's decision to refuse the LDC was well-founded.

Reasons

3. The Council refused the LDC as it considered the structure would constitute operational development in the form of a building rather than a caravan. The Caravan Sites Act 1968 (as amended) (CSA) sets out 3 "tests" that a structure must meet to be defined as a (twin-unit) caravan and therefore not a building. These are commonly referred to as the size, construction and mobility tests.
4. The stated dimensions of the structure are within the maximum limits set under the size test, and are not disputed by the Council. I have no reason to find otherwise. Accordingly, I am satisfied that the size test is met.
5. The appellant has provided comprehensive, corroborated evidence of how the structure has been formed from no more than 2 sections that have been separately constructed on-site for joining-together in a final act of assembly by means of bolts, clamps or other devices (which is yet to occur, notwithstanding certain removable waterproofing measures to the gap in the interim). I accept this evidence and in my view this approach to caravan construction is entirely in accord with the wording of Section 13(1)(a) of the CSA. Nor is it inconsistent

with the cited case of *Byrne*¹ (in which the issue was that the log cabin in that case had been finally assembled from **more** than 2 sections). While the Council has cited the *Ringwood Road* appeal case² from November 2017, I do not agree with the Inspector in that appeal that the statutory test requires the 2 sections to be constructed off-site as that is not what the wording of the statute requires. I do agree with him however that inspectorial continuity is important, and therefore I place significant weight on the numerous other appeal decisions³ cited by the appellant (made before and after the *Ringwood Road* appeal) that are consistent with the view that on-site construction of the 2 sections does not affect the status of the resultant structure as a caravan should all 3 tests be met. Further, the fact that the sections (before the final act of assembly) have been constructed of a considerable number of building materials and components is not relevant. I am therefore persuaded to find on the balance of probabilities that the construction test is met.

6. As accepted by the parties, the hardstanding and block wall upon which the caravan sits (with removable airbricks for the insertion of lifting straps) is a separate act of operational development requiring planning permission. It is not part of the caravan, and seemingly does not attach the caravan to the ground through being cemented or otherwise bonded to it.
7. The appeal papers also include technical evidence including engineering calculations indicating that the caravan, if necessary, possesses the necessary structural qualities to permit its movement in one piece without structural damage. The Council's misgivings as to mobility are not supported by the same degree of technical evidence, which I find to be persuasive on the balance of probabilities. I therefore find that the mobility test has been met.
8. I have considered other appeal cases⁴ cited by the Council, but they do not alter the facts upon which this case turns and do not affect my decision upon it.
9. Accordingly, on the evidence before me, I find on the balance of probabilities that the structure is a caravan and not a building amounting to operational development (and for the same reasons the *Skerrits* tests are satisfied to that effect, referred to in the Council's decision notice). Further, the replacement mobile home does not represent a material change of use of the land.

Conclusion

10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of land for the siting of a replacement mobile home meeting the definition of 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968 was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Andrew Walker

INSPECTOR

¹ *Byrne Vs SSE and Arun District Council* [1997] EWHC Admin 190

² APP/G3110/X/17/3181229

³ APP/N1025/C/01/107459, APP/B5480/C/17/3174314, APP/H265/X/18/3204386, APP/U1240/C/18/3204771, APP/U1240/C/18/3207038

⁴ APP/M9496/C/2185043, APP/X5990/X/12/2172209, APP/K2230/X/19/3222526

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 27 May 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The replacement mobile home meets the definition of 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968, and it does not constitute operational development (or a material change of use) requiring planning permission.

Signed

Andrew Walker
Inspector

Date 22 June 2021

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First Schedule

Use of land for the siting of a replacement mobile home meeting the definition of 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968

Second Schedule

Land at Barracks Field, Waltham Road, Boreham, Chelmsford CM3 3AX

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 22 June 2021

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Scale: Do not scale

