



Appeal Decision

Site visit made on 18 May 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2021

Appeal Ref: APP/G2815/X/20/3263890

Manor House Farm, Addington Road Woodford NN14 4ES

- 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 Richard Burnham against the decision of East Northamptonshire District Council.
 - The application Ref 20/00382/LDE, dated 18 March 2020, was refused by notice dated 1 June 2020.
 - The application was made under section 191(1)(a) and (b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use and development for which an LDC is sought is described in the application form as "a bungalow was built in 2014 on the site and has been continuously occupied as a private dwelling from that date with the use currently continuing".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. It is disputed whether the caravan that was brought onto the site subsequently became a building. For descriptive purposes, I shall refer to 'the structure' and 'the original structure' in this decision.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded. This turns on whether the appellant can show, on the balance of probability, that the structure and its residential use are lawful due to the passage of time.

Reasons

4. The Planning Practice Guidance (the PPG) indicates that the responsibility for providing sufficient information to support an application primarily rests with the applicant. It further states "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

5. The time required for an unauthorised development to gain immunity from enforcement action, and thereby be capable of being certified as lawful, will depend on the nature of that development. If the structure has not become a building, the development is the use of land for the stationing of a caravan for residential occupation and the relevant immunity period is 10 years from the date the use was instituted. Alternatively, if the structure has become a building, the relevant period for immunity for that building is 4 years from the date of substantial completion of the building operations that caused it to become a building.
6. It is therefore necessary to first determine whether the structure is a caravan or a building and then to consider whether the appropriate period of time has passed.

Whether the structure is a caravan or a building

7. Case law has identified 3 primary factors in assessing whether a structure amounts to a building. These are size, permanency and the degree of physical attachment¹. No one factor is decisive, and any assessment will be a matter of fact and degree in the given circumstances.
8. The original structure, brought onto the site in 2014, was a caravan. It needs to be decided whether the structure is no longer mobile, or potentially mobile, because of subsequent operational development. If it is no longer capable of being moved from one place to another, whether by being towed, or by being transported on a motor vehicle or trailer, it is no longer a caravan².
9. I am referred to the *Measor* case³ in which it was said that generally a caravan would not meet the definition of a building due to its lack of permanence and attachment to the ground. While the details of the structures in that case are not before me, it was recorded that an Inspector had not erred in finding that they were not buildings because, among other things, they had not lost their fundamental characteristics as caravans. While *Measor* does not suggest that a caravan could never become a building, that would not occur in most instances without, for example, a substantial degree of affixation to the land. In this case, while it has been stated that some additions gain their structural rigidity in part from attachment to the ground, there is no evidence that the original structure has been affixed to the ground.
10. While the construction of an addition such as a porch or conservatory will normally amount to operational development, it may not necessarily affect the status of the siting of the caravan it is attached to. Neither is it certain that such additions will place a caravan within the statutory definition of a building. In each case, this must be a matter of judgement having regard to the evidence that is presented.
11. A statutory declaration confirms that the following additions were made to the original structure between March and May 2014:
 - Insulation and re-cladding of the exterior of the original structure.
 - Insulation and cladding to the underside.

¹ Cardiff Rating Authority v Guest Keen Baldwin's Iron & Steel Co Ltd [1949] 1 KB 385 and Skerritts of Nottingham Ltd v SSETR (No 2) [2000] 2 PLR 102

² As defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 as amended

³ Measor v SSETR & Tunbridge Wells DC [1999] JPL 182

- A wood burning stove and flue.
 - A lean-to extension.
 - Decking with steps.
 - A timber feature connecting the original structure, the lean-to extension, the boundary fence and an adjacent commercial unit.
12. The appellant states that the structural integrity of the original structure would be compromised by the removal of any one of the alterations and additions that have been made to it. It is also contended that removal of the fence, the insulation, the decking and the stove and flue would significantly harm the structural integrity of the residual structure, such that moving it would not be feasible; thus it would not be a caravan.
13. A chartered surveyor's report commissioned by the appellant concludes that it would not be possible to remove the original structure without "a significant amount of dismantling and deconstruction work." The surveyor further states that this "may affect the structural integrity of the building, in particular where the extension to the side extension ... has been added because an opening has been cut in the original structure."
14. The application statement represents this conclusion as suggesting the structure cannot support its own weight and would fall apart if lifted. This ambiguity should be resolved by affording appropriate weight to the surveyor's directly stated professional opinion and it has therefore not been demonstrated that the structure cannot support its own weight or would fall apart if towed or lifted onto a vehicle or trailer.
15. The surveyor's report notes that the decking is fixed to a timber structure which in turn is fixed to a timber sub-frame underneath the original structure and to the fence, which is also fixed to the adjoining unit, such that all these elements are linked together for structural integrity. This professional opinion falls short of saying the additions are necessary to provide structural integrity to the original structure, rather than the other way round, or that their removal would compromise its structural integrity. Furthermore, the occupier's statutory declaration confirms that the cladding, insulation and decking gain their structural rigidity from the original structure, the fence and the ground. This indicates that they do not provide support to the original structure.
16. These inconsistencies in the appellant's evidence may be resolved by affording appropriate weight to the statutory declaration of the person who carried out the works and the professional advice in the surveyor's report, even though the latter does not confirm that items such as the timber sub-frame were revealed and examined. Also, while the report suggests the opening made when the lean-to-extension was added may affect structural integrity if the structure is moved, it does not indicate whether ways of managing this have been considered. Accordingly, it has not been demonstrated that the removal of the additions would compromise the structural integrity of the original structure to the extent that it could not be moved.
17. Elements such as decking, fencing, and cladding around the underside of the structure are commonplace additions to static caravans and mobile homes that do not necessarily alter their planning status. It has not been demonstrated that removing these elements would take long or have any adverse structural implications, so it has not been explained why these ancillary features might

restrict mobility. While it may be unusual to place a wood burning stove in a structure such as this, it has not been explained why the stove would need to be taken out to move the structure. While the flue connected to the stove appeared to be firmly attached to the structure, it has not been demonstrated that removal, if necessary, would require significant effort or have any adverse structural implications.

18. The surveyor's report does not identify any need to remove the insulation and re-cladding to move the structure. Furthermore, they have not altered the basic form of the original structure, which resembles a static caravan. It is common for a static caravan to be connected to services such as electricity, water and drainage and those connections should not alter its planning status.
19. It is not uncommon for features such as an entrance porch or conservatory to be added to a caravan. Provided such structures can be easily detached, the mobility of the original structure may not be affected. The lean-to extension is of similar significance. While it has not been explained in detail how this is attached to the original structure, it is reasonable to assume that detaching it may require greater effort than elements such as the decking and insulation.
20. The appellant states that the building work has caused the structure to become physically attached to the ground and to the adjacent building. However, this is not evidenced in terms of the original structure but in respect of the additions to it, particularly the lean-to extension and the decking. Even then, the details of any fixing to the ground are not provided and it is therefore unclear whether they are attached by anything more than their own weight.
21. Nevertheless, the structure has a degree of permanence and has not been moved since it was placed on the site in 2014. That is often the case with static caravans, so I do not consider it to be a decisive matter in this case. If a caravan or mobile home remains mobile, which does not necessarily mean being moved on its own wheels and axles, it is likely that a use of land is involved. I have not been given any reason to conclude that, once the lean-to extension and any other elements that need to be removed have been detached, it would not be possible to move the original structure using appropriate lifting machinery and transportation.
22. There is no evidence that any caravan wheels have been removed, or that the original structure is attached to the ground by anything more than its own weight. Accordingly, and subject to the removal of the lean-to extension and any other elements as necessary, it has not been demonstrated that the structure is incapable of being towed as an alternative to being lifted. In view of this, and the size of the structure and its degree of physical attachment, it has not been demonstrated that it has lost the fundamental characteristics as a caravan that it had when brought onto the site.
23. On the evidence before me, and as a matter of fact and degree, the structure, by reason of its permanency, size and degree of physical attachment, is potentially mobile. It has therefore remained within the definition of a caravan and has not become a building.

Whether the use of land for the stationing of a caravan is lawful

24. As the structure has remained a caravan, and not become a building, the relevant breach of planning control is the use of land for the stationing of a

caravan for residential occupation. In order for that use to be lawful, in accordance with section 171B(3) of the Act, it would be necessary for the appellant to demonstrate that the use was instituted not less than 10 years before the date of the application and continued thereafter without significant interruption. However, it is agreed that the structure has not been present for a 10-year period, so the use of land for the stationing of a caravan cannot be certified as lawful.

Conclusion

25. For the reasons given above I conclude that the Council's refusal to issue an LDC was well-founded. The appeal therefore fails, and I shall exercise the powers transferred to me in section 195(3) of the Act accordingly.

Mark Harbottle

INSPECTOR