The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 12 August 2021

Appeal Ref: APP/P0119/X/20/3262677
Sycamore Farm, Stidcot Lane, Tytherington GL12 8QD

- 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 Me Bob Blake against the decision of South Gloucestershire Council.
- The application Ref P20/12327/CLE, dated 15 July 2020, was refused by notice dated 21 October 2020.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is Residential dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The reasoning in the Council's decision was based on its view that the Appellant had failed to demonstrate that what it refers to as the "existing structure" has been used as a dwelling for a continuous period of four years. However, the 'Analysis' within that report largely puts forward arguments that what is on the site is a caravan, rather than a building. This also forms the substantive part of the Appellant's case. Therefore, notwithstanding the wording of the decision notice, my main issue reflects the cases put forward.

Reasons

3. The main issue is whether the subject of this appeal, which I shall begin by calling 'the unit', is a mobile structure involving a use of land, albeit that it may be in permanent residential use; or, whether operational development has occurred such that the unit now constitutes a building used as a dwelling within the definition of a dwelling house for the purposes of planning law.

4. The appeal site comprises a roughly rectangular area of land that lies in the open countryside, to the northeast of the village of Tytherington. It is, for its most part, enclosed by fences and hedges. Its larger part is grassed and used for purposes associated with the residential use of the unit, which lies towards the southeast end of the site.

5. The planning history of the site is agreed between the parties. Temporary planning permission was granted for the siting of two residential caravans on the site in 1980. Further temporary permissions followed; those from 1985 and 1988 related to a single residential caravan. I have not been told of the

duration of the 1988 temporary permission; however, it is agreed that the caravan was not removed in line with the terms of that permission, nor was a further consent granted for its siting. Therefore, from a time unknown to me, the caravan became sited unlawfully. The evidence shows that the original caravan was replaced in 2005.

6. In 2015, an application, (Council reference PT15/4728/CLE), was made for a certificate of lawfulness for the 'existing stationing of a mobile home and use of land as a residential curtilage'. I have not been given a copy of the certificate, and, although the dates given by the parties for its issue differ, both agree that this occurred during January 2016.

7. The Appellant makes the case that the issued certificate was incorrect, on the basis that what is on the site, and had been there for a period considerably in excess of 4 years, is actually a building.

8. The caravan that was introduced to the site in 2005 is clearly seen and makes up the majority of the unit. On its side elevation, facing the garden, there is an area of raised decking that is accessed from the garden by a flight of steps. On the other side is an addition that provides a porch/utility to serve the unit. A skirt, consisting of timber panels, has also been added.

9. I was able to partially access the void under the caravan and could see that the unit had been sited on a concrete pad. It did not appear to be fixed to this; rather, it sat on substantial pieces of timber on concrete blocks. From my limited vantage points, I could not see whether the wheels of the original caravan were in-situ. However, it appeared that the substructure of the unit was in a good state of repair. Foul drainage from the unit was via pipes set into the ground.

10. I have not been informed as to whether the area of decking is actually fixed to the unit. From what I saw, it probably was not; but was free-standing, supporting its own weight on timber supports set into the ground.

11. The Appellant's case for the unit being a building, rather than a caravan, relates to the porch/utility extension.

12. The statutory definition of a caravan is found in S29(1) of the 1960 Caravan Sites and Control of Development Act, as amended. Its relevant text reads '"*caravan" means 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) and any motor vehicle so designed or adapted'*.

13. S13(1) of the Caravan Sites Act 1968 adds further to the statutory definition: *'A structure designed or adapted for human habitation which — (a) is 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; and (b) 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), shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.'*

14. Further, S13(2) of the 1968 Act, as amended, provides maximum dimensions for caravans. Amongst these is that the width shall not exceed 6.8m.

15. The Appellant states, using Google Earth images in support, that the porch/utility has been in-situ since 2005. This assertion was not countered by the Council and I find that, on the balance of probability, this is the case. He states that the result of its addition is that the original caravan fell outside the statutory definition of a caravan, becoming a building, as: it has more than two sections; its width at the time of the application was 8.03m, rather than the statutory maximum of 6.8m; and its addition has rendered the caravan immobile.

16. For his case to be successful, the Appellant has to be able to demonstrate that the porch/utility and 2005 caravan are joined in a manner that would have changed the latter to a building, as defined in S55 of the 1990 Act.

17. The Council did not challenge the overall width that the Appellant claims for the unit, and I have no reason to find otherwise. Therefore, it has a greater width than the statutory maximum.

18. Therefore, it is for the Appellant to show that the porch/utility has been attached to the caravan in a manner that makes it an integral part of the overall structure – thus giving it three sections and rendering it immobile.

19. The Appellant's case gives no substantive details on how the porch/utility element is attached to the 2005 caravan.

20. At my visit, internally, I saw a narrow gap between the porch/utility and the 2005 caravan. I could not be sure, on the balance of probability, when looking into this gap whether the two were attached and, if so, how they were. Externally, there was a weatherproof strip along the join between the two. It appeared that to accommodate the roof of the porch/utility, the eaves of the 2005 caravan had been modified and that the porch/utility's timber cladding had been cut to fit. Overall, the evidence does not prove on the balance of probability that the two are joined other than through the attached weatherproof strip. My finding, on the basis of my site visit and the evidence before me is that the extension is supported by the concrete pad on which it sits, rather than by the caravan.

21. I have not been provided with a structural report on the unit that might lead me to conclude that it is no longer possible to move it, nor that this was the case at the time of the application. It appeared to be of a condition that would allow it to be transported from the site with few problems. The timber skirt panels did not appear to be fixed to the unit in any meaningful way and could be easily removed. Given its structural independence, the decking would not impede such a move. I find similarly with regards to the porch/utility. It is a separate structure that would neither significantly impede the movement of the 2005 caravan, nor cause anything more than superficial damage, if any, when that movement occurred.

22. My finding is that the subject of this appeal retains all the essential characteristics of a caravan.

23. In reaching this finding, I have had regard to the appeal decisions supplied by the parties. Whilst all provide guidance on how to approach a case of this kind and the subsequent construction of a decision, it is the nature of appeals for

certificates of lawfulness that the decision will turn on the facts of each individual case.

24. The parties agreed that the subject of the Sprigg Farm appeal[1] was a building and, therefore, the nature of the timber link and how it was fixed to the two caravans was not specified in the Inspector's decision letter. Furthermore, it was not fully demonstrated in the photographs and plans from that case that were submitted to me. Therefore, I cannot draw any conclusion from that case that would lead me to a different finding from that set out, above. I find similarly with regards to the cases from Redditch[2] and Crediton[3]. As I have said, my decision is based on the evidence of the submissions before me and what I saw at my site visit.

25. In reaching my finding, I have given little weight to the arguments put forward by the Council, in its Delegated Report, in respect of its description as to what constitutes a dwelling. It is quite possible for a caravan to become a dwelling through alterations undertaken to it, even if there might be, for example, a lack of sound-proofing, or that there is no consent under the Building Regulations. No justification has been given for its assertion that a dwelling should have space for "sensible furniture arrangements", which I find to have no basis in law.

26. Given my finding that what is on site is still a caravan, the question of the duration of its occupancy is immaterial. It benefits from a certificate of lawfulness for permanent residential use, and this decision does not alter that.

Conclusion

27. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of a residential dwelling 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 Curnow

Inspector

[1] APP/D0121/C/17/3182448 (and others)
[2] APP/Q1825/X/14/2221299
[3] APP/Y1138/X/17/3180671