

Appeal Decision

Site visit made on 17 November 2021

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 19 November 2021

Appeal Ref: APP/G2713/X/21/3276051

Small Field, Moor End Lane, Sowerby, Thirsk, North Yorkshire YO7 3AG

- 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 Reginald Cowton against the decision of Hambleton District Council.
 - The application Ref 20/02215/CLE, dated 1 October 2020, was refused by notice dated 7 December 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which an LDC is sought is 'use of a caravan as a dwelling'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The use for which an LDC is sought, as indicated above, is taken from the Council's decision notice. It is an accurate description of the claimed existing use.

Reasons

3. The Appellant claims that the caravan at Small Field was sited on the land and became a building more than four years before the date of the application and has been occupied as a dwelling since then. He also claims, therefore, that, pursuant to Section 171B(2) of the Town and Country Planning Act 1990 as amended (the Act), the caravan is immune from enforcement action and that his occupation of the caravan is thus lawful. The Council does not dispute the claim that the Appellant has occupied the caravan at Small Field since 2016.
4. The main issue is whether the caravan should be regarded to be a building for the purposes of applying the time limits set out in Section 171 of the Act.
5. A caravan is defined in the Caravan Sites and Control of Development Act 1960 as "...any structure designed or adapted for human habitation which is capable of being moved from one place to another...". The wheels and tow bar of the caravan at Small Field have been removed and it rests upon six sections of concrete blocks on concrete pads. The chassis of the caravan is not bolted to the blocks and is not otherwise fixed to the ground. After disconnection of utility services the caravan could be jacked up and the wheels and tow bar could be refitted. The caravan could then be towed from the land. Alternatively, the caravan could be lifted by a crane onto a lorry and taken from the land.

6. The two containers close to the caravan, which are used for ancillary purposes, and raised planters either side of the door into the caravan, are not relevant to consideration of the main issue. The caravan is not attached to the ground and has not, as a matter of fact, achieved any degree of permanency. It is not a building and the four year rule of Section 171B(2) is not applicable. The siting of the caravan and its occupation by the Appellant constitutes a change in use of the land to which the ten year rule of Section 171B(3) applies.

Conclusion

7. The caravan at Small Field is not a building and is not immune from enforcement action under the provisions of Section 171 of the Act. Having taken all relevant matters into account the Council's refusal to grant an LDC in respect of use as a caravan as a dwelling at Small Field, Moor End Lane, Sowerby, Thirsk was well-founded and the appeal fails. The powers transferred in Section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector