The Planning Inspectorate

Appeal Decision

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH JANUARY 2023

Appeal Ref: APP/J2210/X/22/3298471
26 Friars Close, Whitstable, Kent CT5 1NU

- 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 Sally Turner against the decision of Canterbury City Council.
- The application Ref CA/22/00409, dated 25 January 2022, was refused by notice dated 26 April 2022.
- The application was made under section 192(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 the land for siting a mobile home for use ancillary to the main dwelling.

Decision

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

Preliminary Matter

2. I consider that the appeal can be determined without the need for a site visit. This is because I have been able to reach a decision based on the information already available.

Main Issue

3. The main issue in this appeal is whether the Council's refusal to grant an LDC in respect of the proposal was well-founded. This turns on whether the appellant has been able to show that, on the balance of probability, the proposal would not involve the carrying out of development as defined in s55(1) of the 1990 Act.

Reasons

4. The appeal site contains an enlarged semi-detached dwelling. It is proposed to set up a detached structure described as a mobile home or caravan within the curtilage of the dwelling. The structure would be around 6 m long and 5.5 m wide, the overall height not exceeding 2.7 m. It would have a timber laminate frame with composite timber cladding and a rubber covered roofing material. The structure would contain a living area and kitchen together with a bedroom and ensuite WC.

5. A caravan is defined in s29 of 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 (whether by being towed, or*

by being transported on a motor vehicle or trailer)…". The stationing on land of a structure which would satisfy the definition of a caravan in s29 of the 1960 Act would not normally involve building operations. The established tests of size, degree of permanence and physical attachment are relevant when ascertaining whether a structure is a building.

6. The size of the structure falls well within the maximum size allowed for caravans in s13(2) of the *Caravan Sites Act 1968*. The structure would rest on the site solely by means of its own weight. Services would be provided separately and could be detached with ease. The structure would not be fixed to the supporting foundation. There was no dispute between the main parties regarding the limited extent to which the structure would be physically attached to the site and there is nothing before me to suggest that I should find otherwise.

7. A factor critical to ascertaining whether the structure would be a caravan or a building is its mobility. The structure would not be wheeled, nor would it have a drawbar as in a caravan in the conventional sense. However, that does not necessarily mean that the structure would be immobile. 'Mobility' does not require a caravan to be mobile in the sense of being moved on its own wheels and axles. A caravan may be mobile if it can be picked up intact and put on a lorry. The available evidence clearly showed that the structure would be capable of being picked up intact and moved, either by lifting it onto a trailer using a hoist attached to a crane, or by using a removable wheeled skid.

8. It is proposed to assemble the structure on site using pre-manufactured components; it was estimated that such works would take around five days to complete. The definition of a caravan contains no requirement for pre-assembly or for it being brought to site intact. Moreover, the number of components involved in assembling the structure has only a limited bearing on whether it is capable of being moved subsequently. The requirements set out in s13(1)(a) of the 1968 Act to be no more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other device apply in respect of twin-unit caravans. However, the above requirements do not extend to single unit caravans. It is more appropriate to regard the structure as a single unit, as it would be much smaller than a twin-unit caravan. The structure would be about a quarter of the floor area of the largest twin-unit allowed by s13(2) of the 1968 Act. Moreover, it is clear that unlike in the case of a twin-unit, the structure could be brought to the site intact if desired. Consequently, the structure does not need to meet the statutory requirements in respect of the maximum number of sections applicable to a twin-unit caravan.

9. Drawing the above matters together, as a matter of fact and degree the structure would not have the characteristics of a building and it would meet the definition of a caravan in the 1960 Act. It follows that setting up the structure on the site would not involve the carrying out of building operations.

10. The stationing on land of a caravan for purposes that are part and parcel of and integral to the lawful use as a single residential planning unit would not involve a material change of use. Generally, provision within the curtilage of a dwelling of a separate structure which would provide the facilities for independent day-to-day living but is nevertheless intended to function as part

and parcel of the main dwelling would also not involve a material change of use[1].

11. I am given to understand that the structure would be used to provide additional living accommodation for the appellant's family. It was not disputed that the intended use of the structure would be as an integral part of the primary use of the planning unit as a single dwellinghouse; there is no sound reason why I should find otherwise. As a result, the proposal would also not involve the making of any material change of use.

12. On the balance of probability, the available evidence therefore shows that the proposal would not involve the carrying out of development, as it would not involve undertaking building operations or the making of any material change in the use of the site.

Conclusion

13. 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 the siting of a mobile home for use ancillary to the main dwelling 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.

Stephen Hawkins

INSPECTOR

[1] *Uttlesford DC v SSE & White* [1992] JPL 171.

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Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 25 January 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, the proposal involves the stationing of a mobile home and its use integral to and part and parcel of the primary use of the planning unit as a single dwellinghouse and therefore would not fall within the definition of development in s55(1) of the 1990 Act.

Signed

Stephen Hawkins

Inspector

Date 10TH JANUARY 2023
Reference: APP/J2210/X/22/3298471

First Schedule

Siting a mobile home for use ancillary to the main dwelling [as shown on drawing reference nos 995551/01, 995551/02 and 995551/03]

Second Schedule

Land at 26 Friars Close, Whitstable, Kent CT5 1NU

NOTES

This certificate is issued solely for the purpose of Section 192 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 would have been 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 10TH JANUARY 2023

by Stephen Hawkins MA, MRTPI

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Reference: APP/J2210/X/22/3298471

Scale: Not to scale