



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/L5240/X/22/3295099

Roberts Farm, Old Lodge Lane, Kenley CR8 5EU

- 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 L Cardy against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/01590/LP, dated 7 April 2020, was refused by notice dated 3 August 2020.
 - The application was made under section 192(1) of the Town and Country Planning Act 1990 as amended.
 - The certificate of lawful use or development is sought for a proposed twin-unit mobile home to replace existing static caravan.
-

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.

Costs application

2. A costs application was made by Mr L Cardy against the Council of the London Borough of Croydon. This is the subject of a separate Decision.

Procedural Matter

3. It was not necessary for me to conduct a site visit to determine this appeal.

Main Issue

4. The main issue in this appeal is whether or not the Council's decision to refuse the LDC application was well-founded.

Reasons

5. The Council refused the LDC application, which proposed a twin-unit mobile home (the twin-unit) to replace the existing static caravan on site¹, as it considered that it constituted operational development for which planning permission was required.
6. The parties agree that the proposal would not constitute a material change in use of the land, since the twin-unit would be used for the same purpose as the lawful use as the existing caravan; namely as residential accommodation ancillary to the keeping of horses with stabling and grazing which forms the lawful primary use of the land. I have read nothing to find otherwise.

¹ During the course of the application, the appellant confirmed to the Council this description of the proposal. Accordingly, and as it was the basis upon which the Council made its decision, I have used the same description.

7. Rather, the essence of the dispute is that the Council considers the proposed twin-unit to be a building and not a structure which would legally constitute a caravan for the purpose of the Caravans Sites Act 1968 (CSA) as amended and the Caravans Sites and Control of Development Act 1960 (CSCDA) (the Caravans legislation). There is therefore no agreement that it is a structure designed or adapted for human habitation which is capable of being moved from one place to another².
8. The Caravans legislation effectively 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.
9. The stated dimensions of the structure are within the maximum limits set under the size test. The un-fenestrated roof space, accessed through a ceiling hatch and occupied by a network of beams and trusses, does not in my view constitute ‘living accommodation’. Accordingly, I do not agree with the Council that the height of the structure (as measured to the ceiling of the living accommodation) exceeds the maximum limit.
10. The appellant has provided evidence, including a method statement, of how the structure will be formed from no more than 2 sections separately constructed on-site for joining-together in a final act of assembly by means of bolts, clamps or other devices. I accept this evidence at face value and in my view this approach to caravan construction is entirely in accord with the wording of Section 13(1)(a) of the CSA and the case of *Byrne*³. Further, I do not agree with the Council that the Jackpad portable foundations and beams form a third section of the structure as (like the Inspector in the *Trotters Plot* appeal⁴) I do not consider them integral to it; all caravans, mobile homes and park homes (all of which are designed to fall within the definition of a caravan) have to sit raised off the ground in some way that avoids damp and facilitates mobility.
11. The case of *Lloyd*⁵ raised by the Council has very limited relevance since the Judge was not considering the question in law of whether a caravan could ever be constructed on-site from component pieces into 2 halves, before the joining of those halves. Rather, the ratio of the case was concerned with the replacement of a mobile home with a building and whether that amounted to inappropriate development in the Green Belt as regards national and local policy. Further, inspectorial continuity is important and therefore I place significant weight on the appeal decisions cited by the appellant (at least one of which specifically considered *Lloyd*) 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. I am therefore satisfied the construction test is met.
12. I place significant weight on the evidence from a chartered surveyor and a crane lifting company that the twin-unit 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. Further, the Council has misdirected itself in that the test is an objective one and does not concern local conditions. I therefore find the mobility test met.

² Section 29 of the CSCDA

³ *Byrne v SSE and Arun District Council* [1997] EWHC Admin 190

⁴ APP/U1240/C/18/3204771

⁵ *Lloyd v Secretary of State for Communities and Local Government* [2014] EWCA Civ 839

13. Accordingly, on the evidence before me, I find on the balance of probabilities that the twin-unit structure is a caravan as defined in the Caravans legislation. Further, and having considered the *Skerritts* tests⁶ in full, I am also satisfied that by reasons of size, attachment and permanence that the twin-unit is not a building amounting to operational development. The unit can be readily disassociated from the Jackpad portable foundations and beams on which it sits for lifting and removal from site, with the latter components themselves relatively easily removed from the ground without any discernible degree of permanence or change in the physical characteristics of the land. Therefore, neither the foundational system nor the caravan constitute operational development requiring planning permission.

Conclusion

14. 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 a proposed twin-unit mobile home to replace existing static caravan 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

⁶ *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385, endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102

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 7 April 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, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposal does not constitute development under section 55 of the Town and Country Planning Act 1990 (as amended).

Signed

Andrew Walker

Inspector

Date: 11 January 2023

Reference: APP/L5240/X/22/3295099

First Schedule

Twin-unit mobile home (within the meaning of s13 of the Caravan Sites Act 1968) to replace existing static caravan, used as residential accommodation ancillary to the use of the land for the keeping of horses with stabling and grazing.

Second Schedule

Land at Roberts Farm, Old Lodge Lane, Kenley CR8 5EU.

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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 11 January 2023

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

Land at: Roberts Farm, Old Lodge Lane, Kenley CR8 5EU

Reference: APP/L5240/X/22/3295099

Scale: Do not scale

