



Appeal Decision

Site visit made on 14 February 2023

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/U1430/X/22/3294238

Holland House, Hoads Farm, Sedlescombe, East Sussex TN33 0RY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs S A Hawkins against the decision of Rother District Council.
- The application ref RR/2021/1094/O, dated 22 April 2021, was refused by notice dated 28 January 2022.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use is sought is for the use of land for the siting of a mobile home for human habitation.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development was described as a '*residential mobile home*' on the application form and in the Council's decision notice. However, a mobile home (caravan) is defined 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, and any motor vehicle so designed or adapted*¹'. The stationing of a mobile home also constitutes a use of land.
3. The use of land for the siting of a mobile home for human habitation is an accurate description of the development that has taken place. Giving the description precision would not fundamentally change what has been applied for. I shall vary the description accordingly².

Main Issue

4. The main issue is whether the Council's refusal to grant a certificate was well founded.

Reasons

5. In this type of appeal, the onus of proof rests with the appellant. The appellant needs to show, on the balance of probability, that the use of land for the siting of a mobile home for human habitation has occurred for the relevant period, without significant interruption. The relevant period for a material change of use is 10 years and the relevant date is the date of the application. The

¹ Section 29 of the Caravan Sites and Control of Development Act 1960

² Section 191(4) of the Town and Country Planning Act 1990 as amended provides for the modification or substitution of the description of the matters applied for

- material date is therefore 22 April 2011. Any 10-year period starting on or before that date is relevant.
6. The appellant purchased the land in February 2020. Due to financial hardship, caused by the Covid pandemic, she was unable to continue to pay rent for her accommodation. Taking up occupation of the existing caravan, located in the yard, resolved her accommodation concerns. Later, the mobile home for human habitation was moved into the yard.
 7. Prior to the appellant's purchase of the land, a Mrs Coleman and her family occupied a caravan stationed on the land for human habitation purposes ('Mrs Coleman's caravan'). Mrs Coleman's caravan was the one initially occupied by the appellant. Mrs Coleman's caravan, now located in the field, is used for storage purposes. The appellant has no first-hand knowledge of when a caravan or mobile home for human habitation was first stationed on the land.
 8. Mrs Coleman's statement of truth refers to a friend (Mr Jans) allowing her 'to place a residential mobile home on land at livery stables he owned at Hoads Farm and known as Holland House'. Her and her daughters moved into the caravan in 'early 2017'. The aerial imagery provided shows that Mrs Coleman's caravan was initially located in the field behind the hay barn and later moved into the yard. Mrs Coleman and her family's occupation of a caravan on the land commenced long after the material date. Mrs Coleman's occupation of her caravan, coupled with the appellant's subsequent occupation, demonstrates less than 5 years use of the land for the stationing of a mobile home for human habitation.
 9. Mrs Coleman's statement of truth refers to there being 'An old mobile home, occupied previously by a worker at the livery stables, [which] was moved to the field behind the stables'. The aerial imagery provided does not show a caravan, or anything else, located behind the stables. While the aerial image dated 23 May 2009 does not show all the appellant's land, it seems less than likely that a caravan or mobile home, used for human habitation, would be located beyond the immediate environs of the stables, farm buildings and services.
 10. The Council had cause to visit the land on 29 September 2016 and again on 30 November 2016, when they saw the land being used for vehicle storage, that a pole barn was being erected, and a mobile home ('currently unoccupied'³) had been stationed. The Council's records make no reference to any other mobile homes or caravans being stationed on the land during these visits.
 11. In response to the Council's enforcement investigation, Mr Jans applied to retain an agricultural building and for the stationing of a temporary mobile home⁴ ('the 2016 PA'). The Council's subsequent delegated report, seeking authority to take enforcement action ('the DR'), refers to an agricultural statement that accompanied the 2016 PA. That statement is said to set out Mr Jans' intention to develop an equestrian centre on the land. The mobile home being identified as being a temporary measure, to be used for breaks and meals whilst the equestrian centre was being realised. The 2016 PA therefore

³ Council's Appeal Statement, Appendix 2

⁴ RR/2016/3274/P – application for erection of agricultural barn and stationing of a temporary mobile home (retrospective) – refused 28 March 2017

provides no support to the claim that a mobile home for human habitation was on the land during this time.

12. The Council made a further visit to the land on 24 March 2017, during which it was noted that a marquee had been erected and more vehicles were being stored, along with car parts, tyres, domestic paraphernalia. The enforcement notice, which was subsequently issued on 21 June 2017, related to:

(i) the erection of a pole barn, and

(ii) the erection of a marquee for storing/repairing motor vehicles', and 'a material change in use of the land from agriculture to a mixed use comprising agriculture, the storage and repair of motor vehicles and the storage of a mobile home.

The enforcement investigation and subsequent notice make no mention of any other mobile home or caravan, for human habitation or not, being stationed on the land.

13. In respect of the other statements of truth submitted in support of the appellant's claim:

- Michaela McKenzie states '*Hoads Farm was a poultry farm and livery yard with stables. [She is] well acquainted with the stables, the stable yard and the fields to the South East and West associated with it and now owned by [the appellant]. These premises have included an occupied residential mobile home all the time [she has] known them*'. This statement does not identify where the mobile home was stationed on the land, nor does it provide details of who occupied it during what period(s). It is also unclear whether '*These premises*' refers to the poultry farm or the appellant's land.

The appellant does not own all the land previously occupied by the poultry farm. The '*occupied mobile home*' could be one of the two lawful mobile homes used for human habitation stationed on land elsewhere within the former Hoads Farm yard. No specific reference is made to Mrs Coleman's occupation of her caravan. For these reasons, Ms McKenzie's statement lacks a level of detail which would be expected of someone having personal knowledge of the land since 1991. It is therefore imprecise and ambiguous.

- Ms Harrison's statement of truth refers to Mrs Coleman occupying '*a residential mobile home in the stable yard shortly after her friend Peter Jans bought the stables and land*'. We know, from Mrs Coleman's evidence that she did not take up occupation of the caravan until early 2017, sometime after Mr Jans bought the land and after the Council's enforcement investigation began. Ms Harrison's statement goes some way to corroborate Mrs Coleman's statement. However, it does not cover any relevant 10-year period, only covering the period already established by the appellant and Mrs Coleman.
- Paul Martin lives at Mobile Home One Hoads Farm and has done so for over 30 years. The wording of his statement of truth replicates that of Ms McKenzie, except where it relates to his personal circumstances. Mr Martin's statement therefore lacks the level of detail which would be

expected of someone having personal knowledge of the land for over 30 years. It is therefore imprecise and ambiguous.

- Carly Taylor's statement of truth confirms she has lived at Hoads Farm since March 2017. She also confirms that Mrs Coleman lived in a caravan with her family at that time, and that there has been a residential caravan on the land throughout the time she has lived here. Ms Taylor's statement does not cover any relevant 10-year period, only covering the period already established by the appellant and Mrs Coleman.
14. The evidence relating to the stationing of a mobile home for human habitation on the land prior to 'early' or 'March' 2017 lacks precision and is ambiguous. Furthermore, evidence provided by the Council in relation to the enforcement investigation and the 2016 PA casts doubt that such a mobile home was stationed on the land.
15. The 2013 aerial image shows a mobile home stationed on the land behind the barn. However, no evidence is provided as to what it was used for at that time. If it was indeed used for human habitation, none of the statements of truth refer to a mobile home in this location. Furthermore, there is no information as to who occupied it and for what duration. Even if such detail had been provided and was combined with the appellant's and Mrs Coleman's use, this would still not establish a 10-year period of use of the land for the stationing of a mobile home for human habitation.
16. It would be reasonable to conclude that the mobile home shown behind the barn was stationed on the land at some time prior to the 2013 image. When however, is unclear. There is no mobile home shown behind the barn in the 2009 aerial image, or anywhere else on the land for that matter. The 2009 aerial image and the 2013 aerial image are approximately 4 years apart and straddle the material date. For this reason, they fail to establish when a mobile home was stationed on the land with sufficient precision.
17. Having regard to all the above, the appellant has failed to demonstrate, on the balance of probability, that the land has been used for the stationing of a mobile home for human habitation for any 10-year period starting on or before 22 April 2011.

Conclusion

18. 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 land for the siting of a mobile home for human habitation 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.

M Madge

INSPECTOR