



Appeal Decision

Site visit made on 30 May 2024

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal Ref: APP/Z3825/X/23/3331952

19 Three Acres, Horsham, West Sussex RH12 1RS

- 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 Chris Fryer against the decision of Horsham District Council.
 - The application Ref DC/23/1406, dated 20 July 2023, was refused by notice dated 15 September 2023.
 - 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 described as: Mobile home/caravan within property boundary, for the use and enjoyment of the occupants of the main existing property and as a habitable place to accommodate family members.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description in the heading above from the covering letter for the application as no clear description is provided on the application form.

Main Issue

3. The main issue is whether the Council's decision to refuse the application is well-founded.

Reasons

4. Section 192(1) of the 1990 Act provides for the making of an application to ascertain whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land would be lawful. In an LDC appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities.
5. In an LDC application the question is whether the proposed use or operation would be lawful if 'instituted or begun' on the date of the application. Evidence should not be rejected simply because it is uncorroborated. If there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

6. In summary, planning permission is required for the carrying out of any development of land and section 55(1) of the 1990 Act defines 'development' as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
7. The appeal site contains a semi-detached dwellinghouse. I have no reason to believe this is not the lawful use of the land. The proposed structure is described by the appellant as a 'mobile home/caravan'. In practice, these mean the same thing.
8. The drawings indicate that the proposed structure would be placed in the back garden of the house. It would contain two single bedrooms and a living area with an office area and a kitchenette with no water or waste services. At the time of my site visit, the structure had not been installed and so my assessment is based solely on the information provided.
9. The Council states that the stationing of a mobile home occupied as part and parcel of the primary dwellinghouse would not constitute a change of use of land requiring planning permission and that the use of the mobile home to accommodate family members as an extension of the main existing dwelling would not be considered to give rise to the creation of an independent planning unit.
10. I have no reason to disagree with the above assessment and so, for the purposes of section 55, the proposal does not constitute a material change of use of the land. Therefore, the dispute in this case is whether the proposal constitutes operational development for the purposes of section 55, ie whether it is a building, or a caravan.
11. Throughout the appellant's documentation, the proposal is repeatedly referred to as a 'building'. This introduces a significant element of ambiguity into the appellant's case and contradicts the appellant's case that the proposal is a mobile home/caravan.
12. The stationing of a caravan is normally taken as constituting a use of land, rather than operational development. So I need to consider, based on the information provided, whether what is proposed complies with the statutory definition of a caravan.
13. The term 'caravan' is defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 (CSCDA60) as meaning '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, but does not include—(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent'.
14. In law, a caravan is only a caravan if it meets the description laid down in section 29 of the CSCDA60 and the Caravan Sites Act 1968 (CSA68) as amended. Section 13 of the CSA68 defines twin-unit caravans, as follows:

(1) 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.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely— (a) length (exclusive of any drawbar): 65.616 feet (20 metres); (b) width: 22.309 feet (6.8 metres); (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).

15. In light of the above, the tests to be applied in determining whether a proposed structure is a caravan are commonly referred to as the construction test, the size test and the mobility test.
16. In respect of the construction test, it is said that the proposal would be constructed on-site in two sections which will then be joined together by bolts as the final act of assembly. This being the case, I have no reason to believe that the proposal would not satisfy the construction test, based on the information provided.
17. In respect of the size test, based on the submitted information, the approximate measurements for the proposed structure are 6.32 metres wide, 6.58 metres deep and with a maximum internal ceiling height of 2.8 metres. As such, the proposal satisfies the size test.
18. In respect of the mobility test, the appellant states that the structure is 'designed to be relocated if necessary'. Supporting information provided sets out that the structure will be installed upon a static timber chassis and the chassis will be supported by 'ground screws'. In this regard, no further details have been provided and it is said the detail will depend on the stability of the soil.
19. It is also said the structure will be fixed around the edges using screw-plates to allow the 'building' to be 'technically' detached to allow for future transportation. It is also suggested that the chassis is fixed to the ground screws by means of screw-plates so that it too can be disassembled. Be this as it may, it seems to me that the structure is entirely reliant on the chassis and the ground screws which, on the balance of probability, will be screwed into the ground.
20. I note the view expressed in the supporting information that the chassis is not strictly part of the 'mobile home' and as such, is not treated as part of the 'construction'. But on the balance of probability, the arrangement described indicates that the structure will be attached to the ground with a significant degree of permanence and that the ground will be physically altered by reason of the ground screws being screwed into it.
21. Taking the above into account and bearing in mind where the burden of proof lies in an LDC appeal, I am not satisfied the mobility test would be met, meaning that the structure would not comply with the statutory definition of a

- caravan. This indicates that it would instead be a building and this is consistent with the 'building' terminology used throughout the appellant's submissions. Nothing has been provided to lead me to a different conclusion in this regard.
22. Case law has established 3 primary factors as decisive of what constitutes a 'building': size, permanence and physical attachment to the land. None of these factors are necessarily decisive and greater weight may be given to one over others in reaching a conclusion on whether a structure constitutes a building.
23. I have considered these 3 factors for the proposal described and I make the following observations. The size of the proposal is far smaller than a caravan may be and so I do not find its size to be a determining factor in this case. Whilst the structure itself is said to be designed to be relocated, there is no indication it ever would be. Nor is there any specific evidence of its mobility. It is, in effect, proposed as a permanent extension to the existing dwellinghouse (albeit not physically attached to it).
24. In the absence of any specific information to the contrary, the chassis and ground screws constitute integral parts of the proposed structure and mean that it would be physically attached into the ground. As such, on the balance of probability, the structure would result in a permanent physical alteration to the land. Nothing has been provided to lead me to a different conclusion.
25. Taking into account all of the above, and as a matter of fact and degree, I give greater weight to the permanence and physical attachment to the ground than to the size of the proposal. I conclude, based on the information provided, that what is proposed is a building.
26. I have considered whether any planning permission exists for the proposal. But no case has been made that it would be lawful by reason of rights contained in The Town and Country Planning (General Permitted Development) (England) Order 2015. Nor is there any evidence that an express grant of planning permission exists either.

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: 'Mobile home/caravan within property boundary, for the use and enjoyment of the occupants of the main property and as a habitable place to accommodate family members', 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.

L Perkins

INSPECTOR