



Appeal Decision

Site visit made on 4 September 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2024

Appeal Ref: APP/C5690/X/23/3319035

43 Inchmery Road, Catford, Lewisham, London SE6 2NA

- 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.
 - The appeal is made by Mrs Briony Toogood against the decision of the Council of the London Borough of Lewisham.
 - The application ref DC/22/128623, dated 27 September 2022, was refused by notice dated 1 February 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 the siting of an ancillary temporary structure under the Caravan Act 1968.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The description on the application form refers to the Caravan Act 1968. The evidence indicates that this is a reference to the Caravan Sites Act 1968 (CSA).

Reasons

3. Section 192(2) of the Town and Country Planning Act 1990 as amended (the 1990 Act) indicates that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate (an LDC) to that effect; and in any other case they shall refuse the application. The onus of proof is on the applicant and the required standard of proof is the balance of probabilities.
4. The appeal relates to a proposal that would provide accommodation for use in connection with 43 Inchmery Road. The main issue is whether it would involve development by virtue of being a building or other operation on the land or, conversely, whether it would be a caravan. If found to be a caravan, it would be lawful. There is no reason before me to suggest it might be lawful if found not to be a caravan.

5. The resulting unit would fall within the size limits of a twin-unit caravan set out in the CSA. While access to the site for specialist lifting equipment would be challenging, the statutory definition requires the 'structure' to be capable of being moved and does not reference the practicalities of doing so. The Council provide no contrary evidence to the appellant's confirmation that the assembled structure could, theoretically, be lifted.
6. The definition of a twin-unit caravan in the CSA includes that the structure is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps and other devices. I have been referred to the case of *Byrne v SoS for the Environment and Arun District Council* [1997] 74 P. & C. R. 420 where it was clarified that if the process of construction was not by the creation of two separately constructed sections then joined together, the definition was not satisfied.
7. Both parties have referred me to appeal decisions concerning the construction of similar units of accommodation where the two sections comprising the final unit were assembled at their final location. I am aware of nothing in the legislation that prevents the initial assembly of each section occurring at the place of final assembly of the whole. In the referenced cases, considerable initial assembly of each section was required and they appear to have strong parallels to the current case. The Inspectors, however, reached different conclusions as to whether the resulting structure was a caravan or not, so appeal precedent cannot usefully guide me here. I, therefore, rely on the evidence before me about this particular case.
8. This proposal describes how pre-fabricated components would be brought to the site to create the structure. The submissions are at pains to point out that the components would allow the two sections to be separately constructed before they are finally bolted together. However, the method explains that, first, an 'Easy Pad' foundation system would be laid out across the whole site of the structure. It would seem necessary to ensure consistent levels across the two sections, and the method explains that measurement of the foundations should be taken from a single corner of the whole. The two sections would share foundation pads along the joint line.
9. Next, the flat pack assembly would begin through the laying of floor cassettes upon the foundation pads, following which various prebuilt wall cassettes would be assembled. A joint line would remain visible, but the process appears to dictate a simultaneous, not separate, construction of the two. I note an absence of evidence as to how or when the roof would be constructed.
10. From the above, it may well be that the final act of assembly could be the fixing together of the two sections (with bolts, clamps or other devices). However, a considerable amount of simultaneous construction of the two parts would have first had to take place. While the final structure would not be fixed to the ground, the process appears to be very similar to the erection of many other pre-fabricated buildings. The evidence is not clear and precise about anything above wall height.
11. The generalised construction information also includes a description of an alternative construction method on two separate wheeled alloy chassis. However, this describes splitting the mobile home 'lengthways down its

length', which is not the proposal detailed in the submitted plans. Thus, the practicalities and method of providing the particular accommodation sought here in this way are imprecise and ambiguous.

12. Therefore, the evidence does not show that, on the balance of probabilities, the sections would, in reality, be separately constructed and finally fixed together, in this particular case. Therefore, I find that it has not been demonstrated that the structure would be a caravan.
13. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the siting of an ancillary temporary structure under the CSA 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.

M Bale

INSPECTOR