



Appeal Decision

Site visit made on 22 October 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05th November 2024

Appeal Ref: APP/L3625/X/24/3337484

3 Avenue Road, Banstead, Surrey SM7 2PF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr & Mrs Roger Nice against the decision of Reigate and Banstead Borough Council.
 - The application ref 23/02422/CLP, dated 22 November 2023, was refused by notice dated 9 January 2024.
 - The application was made under section 192(1)(a) of the Act 1990.
 - 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 and the proposed mobile home meets the definition of a caravan as set out in the Caravan Sites Act 1968, and as amended in October 2006'.
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Decision

1. The appeal is dismissed.

Legal background

2. A mobile home is a caravan. Section 29(1) of the Caravan Sites and Control of Development Act 1960 provides the relevant meaning of 'caravan', which includes 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.
3. Section 13(1) of the Caravan Sites Act 1968 (as amended) specifies that a twin-unit caravan is a structure 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, which, when assembled, is physically capable of being moved by road from one place to another. Section 13(2) provides the maximum dimensions for a twin-unit caravan as 20 metres (m) in length, 6.8m in width, and 3.05m in overall height, measured internally from the floor at the lowest level to the ceiling at the highest level. Therefore, to be considered a twin-unit caravan, a structure would have to meet three tests concerning its size, construction, and mobility.
4. Section 57 of the Act sets out that planning permission is required for the carrying out of development. Section 55 provides the relevant meaning of 'development' as the carrying out of building, engineering, mining or other operations in, on, over or under land (known as operational development), or the making of any material change in the use of any buildings or other land.

5. Caselaw¹ has found that a caravan would not generally satisfy the definition of a building, having regard to factors of permanence and physical attachment to the ground. The siting of a caravan is therefore normally taken to be a use of the land on which it is sited, which may or may not bring about a material change in the use of land.
6. The onus is on the appellant to demonstrate, on the balance of probabilities, that the proposal would have been lawful on the date of the application. The planning merits of the proposal, including any personal circumstances or the reasons for the proposal, are not relevant to the legal matters under consideration. If there is no evidence to contradict the appellant's claims or make them less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted².

Main Issue

7. The main parties are in agreement that the proposal would not bring about a material change in the use of the land, owing to the particular circumstances of the appellants, the site, the proposed structure, and the use and purpose of the proposed structure. I see no reasons to find differently. The main issue is therefore whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the proposal would amount to operational development.

Reasons

8. The application was accompanied by plans, a Construction Method Statement, and a Planning Statement which explain how a specific structure, claimed to be a caravan, would be sited on the land. It is clear that an LDC is sought for this specific proposal, and it is claimed that the proposed structure meets the definition of a caravan. An LDC is not therefore being sought for an unspecified type of caravan.
9. There is no dispute that the proposed structure would satisfy the size test for a twin-unit caravan. Turning to the construction test, the proposed structure would comprise 2 units fabricated on-site in two separate pod sections and then bolted together. It would be built upon a 'Swift Plinth' foundation design, which requires an unspecified amount of site levelling to create a balanced and level platform. Plinths would sit upon several square sections of compacted hardcore within a load bearing grid each, and the timber base of the proposed structure would connect to brackets on the plinths, without being permanently fixed to the ground. Water, sewer, and electrical service connections to the proposed structure would be prepared in advance.
10. There are very limited details as to how the above would be achieved in this specific case. Although I have been told there is no requirement for the two parts of a twin-unit caravan to be created away from the site or each other, this ignores the overall construction process proposed in this case. Taken as a whole, the proposal outlines what would reasonably be described as a single building operation: the laying of services, the unspecified levelling of the site, the installation of plinths, the construction of two parts of the proposed structure from many pieces, and the final bolting together of those two parts.

¹ Measor v SSETR & Tunbridge Wells DC [1999] JPL 182

² Gabbittas v SSE & Newham BC [1985] JPL 630

11. Caselaw³ does not suggest that the construction of two parts from an unspecified number of pieces on-site, which are then connected as the final act of assembly, will always satisfy the construction test. On the evidence in this case, I fail to see how simply bolting together two pod sections which have been built on-site from 'many pieces', along with the other works, would qualify the completed structure as capable of being a twin-unit caravan.
12. To satisfy the mobility test the structure merely needs to be physically capable of being moved by road from one place to another once assembled. It is not necessary for it to be demonstrated that the structure could be removed from the site in a single piece and lawfully transported by road. I have great difficulty understanding how the proposed structure could be lifted onto a flatbed lorry in practice due to the constraints of the site, but this does not matter for the mobility test. Disconnection from services would be straightforward and would not significantly hinder its mobility.
13. That said, the only information provided relating to the mobility of the proposed structure is that it would rest on plinths 150 millimetres clear of the ground for 'lift straps/rig' to be placed underneath. It is stated that the proposed structure has been designed to have the structural integrity to be able to be craned or moved as a whole unit, but there are no further explanations, structural calculations, or detailed plans to show how this is so. Such information would be fundamental to the proposed structure's design, if it is to be capable of being lifted by crane and moved by road once fully assembled. Furthermore, no details have been provided of what the straps/rig may comprise, how they may be assembled, or the process of how this specific structure with an irregular footprint would be physically capable of being moved in such a manner.
14. The proposed structure would be a substantial building with 2 bedrooms, a shower room, separate water closet, and a kitchen/dining/living area. Although it would have no permanent fixing to the ground, it would rest under its own significant weight on plinths set into the levelled ground. Any necessary levelling of the site would likely be minimal, but no information has been provided to suggest this would not require operations normally undertaken by a person carrying on business as a builder.
15. As annexe accommodation for 2 elderly persons, the proposed structure would have more than a fleeting degree of permanence, even if it could be removed from the site by crane. However, in practice, the likely difficulty of removing the structure from the land would make that an unappealing prospect.
16. Having considered the relevant legislation and caselaw, there is insufficient precise and unambiguous evidence to show, as a matter of fact and degree, that the proposed structure would satisfy the construction and mobility tests to comprise a caravan. Furthermore, the evidence indicates that the proposal as a whole would likely involve building operations requiring planning permission. It has not therefore been demonstrated on the balance of probabilities that the proposal would have been lawful on the date of the application.

³ Byrne v SSE & Arun DC [1998] JPL 122

17. I have been referred to other appeal decisions⁴ where structures were found to be lawful caravans, having satisfied the above tests. I have only been provided with selected text from those decisions and not the full details of each case. Nevertheless, for the above reasons, the submissions do not convince me the specific proposed structure in this case would likely constitute a caravan or would have likely been lawful on the date of the application.

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 the land for siting a mobile home for use ancillary to the main dwelling was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR

⁴ Appeal refs: APP/N1025/C/01/1074589, APP/L5810/X/15/3140569, APP/J1915/X/11/2159970, APP/B5480/C/17/3174314