



Appeal Decision

Site visit made on 8 October 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/J0405/X/23/3327728

Land off road leading to A413, Lillingstone Lovell, Buckingham

- 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 Mr Anthony Godwin against the decision of Buckinghamshire Council.
 - The application ref 23/01578/CPL, dated 18 May 2023, was refused by notice dated 6 July 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 "the use of agricultural land and structures placed on the land in association with the use of the land. For the purposes of the Planning Acts agriculture is not development that requires planning permission."
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by Mr Anthony Godwin against Buckinghamshire Council. This application is the subject of a separate decision.

Main Issue

3. The Council accepts within its Delegated Report that the lawful use of the appeal site is agricultural, as such the use of the land for such a purpose is not in dispute. In this light, the main issue in this case is whether the placing of structures on the land results in operational development that requires the benefit of planning permission, or whether the placing of the structures comprises a use of land, that falls within the authorised use.

Reasons

4. The appellant indicates within the covering letter that accompanied the application, that it is intended to place a caravan and two metal storage containers on the land. The Council's decision notice refers only to the proposed storage containers, and not to any caravan. Given that the siting of a caravan is a use of land, and well established to not be operational development, this is understandable. As such, it is the matter of whether the proposed storage containers are building operations that is the matter in dispute.

5. Three primary factors were identified in *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd [1949] 1QB 385*, which were then endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2) [2000] 2 PLR 102*, as being decisive when considering what was a building. These were:
- the size of the structure,
 - its degree of permanence, and
 - any physical attachment to the ground.

None of these factors alone is decisive and the issue is to be considered in the round.

6. *Size*: The appellant indicates that the storage containers would measure 2.4 metres by 6 metres and would be delivered to the site ready assembled, as whole units.
7. *Permanence*: The appellant refers to the structures as being temporary and moveable, with it being stated that the containers are "easily moved, using farm machinery associated with the land." However, at the time of my visit there appeared to be no machinery on the appeal site that would be capable of moving two storage containers and there is no information before me in respect of any other land where there could be such machinery. There is also no indication of how temporarily the containers may be sited, other than it will be during the "initial" cultivation period. It is not necessary for an item to be present "permanently" in order to exhibit characteristics of "permanence". Given the appearance of the containers, their number, together with that there is no indication of how long they would be sited for, in my view, they would exhibit a high degree of permanence.
8. *Physical attachment*: The appellant contends that the containers are not "fixed structures". There is no information in respect of any base being prepared and as such it is likely that the containers would simply be placed on the ground. Nonetheless, storage containers rest on the ground under their own weight, which is considerable. While no additional fixation is generally required, this method of siting is sufficient in my view to comprise a method of attachment, particularly given that it is necessary to utilise machinery to remove or relocate such containers.
9. Notwithstanding their position, the appellant accepts that it is a matter of fact and degree as to whether it is a building or structure that is being placed on the land. Considering the matters that I have outlined above, while the size of the individual containers may not be considerable, when considered in the round with the matters of permanence and physical attachment, I find that the siting of the containers on the land is such that they would comprise building operations, not a use of the land, and therefore the development requires the benefit of planning permission.
10. Given that no planning permission, either express or granted by way of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), exists for the containers, a certificate of lawful use or development cannot be issued in respect of the proposal. Accordingly, the appeal must fail.

Other Matters

11. The Council's Delegated report indicates that interested parties commented on the application and raised numerous matters, included but not limited to visual impact, drainage, effect on traffic movements, and possible future development at the site. These, and others raised, are matters related to the planning merits of a development. However, an application for an LDC seeks a declaration in respect of the lawfulness of a development and as such planning merits do not fall to be considered.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of a proposed use described as "the use of agricultural land and structures placed on the land in association with the use of the land. For the purposes of the Planning Acts agriculture is not development that requires planning permission" 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).

Martin Allen

INSPECTOR