



Appeal Decision

Site visit made on 21 November 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Appeal Ref: APP/Y9507/X/23/3317898

Bay Tree Stables, Dundridge Lane , Bishops Waltham , Southampton, SO32 1GD

- 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 Miss Yasmin Wright against the decision of South Downs National Park Authority.
 - The application dated 28 April 2021, was refused by notice dated 21 June 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use and development for which a certificate of lawful use or development is sought is building operations to convert caravan to a building and a change of use to single dwellinghouse.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use and operation which is found to be lawful.

Preliminary Matters

2. The building operations and the change of use of the mobile home to a dwelling are both subject to the 4 year timescale. Although that has recently changed so that all breaches of planning control are now 10 years, transitional provisions mean the change did not come into force until 25 April 2024. At the date of the application, 28 April 2021, assuming the evidence supports this, no enforcement notice could be issued, so it is possible to issue an LDC. Thus four years from the date of the LDC application is 28 April 2017.

Reasons

3. The mobile home in question sits in a field to the north of Dundridge Lane adjacent to a stable block. The appellant says it was moved onto the site by Paul Tucker in March 2017. In doing so he damaged the floor of the mobile home and it was repaired by using concrete, which had the effect of fixing it to the ground. Jay Tucker says he moved into the mobile home on 30 March 2017 and lived there with his family until 20 October 2017. Then Callum Bevis, a friend of Mr Tucker's moved in. He lived there, occasionally with his girlfriend (the appellant), until she purchased the mobile home in October 2018 and they have lived there together ever since.
4. On the face of it therefore, there has been continuous occupation since before 28 April 2017, which is what the appellant needs to show. However, this is predicated on two issues, firstly, has the mobile home been turned into a

building (if not it remains a caravan and so is subject to the 10-year time period as it is a material change of use of the land not a building); and secondly, is there any evidence to cast doubt on the narrative of occupation.

5. As I saw on my site visit the mobile home was clad in wood and the roof extended across the gap to link to the adjacent stables. Under the linking roof was a shipping container that had been converted into a utility/store. To the rear a lean-to had been added that could be accessed from inside the mobile home and contained a bathroom. The whole is surrounded by a raised patio and has the appearance of a small bungalow. This is not unusual in caravan cases and it still might be possible to remove the additions, disconnect the services and lift the mobile home onto a lorry. Such an action doesn't have to be practicable just theoretically possible. However, I was able to see beneath the mobile home to the large concrete plug that forms the floor of a section of the mobile home and also has the effect of concreting it to the ground. I agree that this would make it very difficult if not impossible to move the mobile home without considerable damage. In my view therefore it has become fixed to the ground and is a building rather than a caravan.
6. Various third parties have cast doubt on the appellant's version of events. Several record visits by the Council enforcement officer during the early period of Mr Bevis's occupation, after which he concluded no-one was living there. There is also an advert apparently from 2018 where the land was advertised for sale with a stables and mobile home in place. In the photographs of that sale the mobile home is a metre or so from the stable block and has no extension added.
7. However, there is no evidence from the Council as to these enforcement visits and I only have second hand comments that it appeared no-one lived there. I do not know why the officer reached that conclusion or why this was not followed up, but I don't think it is sufficient to gainsay the cogent evidence from the appellant. Similarly the evidence of the sale does not preclude someone from living there. Indeed the appellant's evidence is that the previous owner did want to sell the land and that eventually spurred her on to buying it. The mobile home appears to be in the same place as it is now, it just hasn't been connected to the stable or clad in wood, but that does not detract from my conclusion that it is a building and there is nothing to suggest the concrete plug wasn't in place in early 2017.

Conclusion

8. Taking it all together I find that on the balance of probabilities the mobile home has been converted into a building and lived in continuously for more than 4 years prior to the application for an LDC. I shall allow the appeal and issue the LDC as applied for.

Simon Hand

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 28 April 2021 the use and operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto labelled "existing structure" and edged in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: The mobile home was converted into a building and occupied residentially for more than 4 years before the date of the application.

Signed

Simon Hand

Inspector

Date: **26 November 2024**

Reference: APP/Y9507/X/23/3317898

First Schedule

Building operations to convert caravan to a building and a change of use to single dwellinghouse.

Second Schedule

Land at Bay Tree Stables, Dundridge Lane , Southampton, SO32 1GD

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use and operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: **26 November 2024**

by Simon Hand

Land at: Bay Tree Stables, Dundridge Lane, Southampton, SO32 1GD

Reference: APP/Y9507/X/23/3317898

Scale: Not to Scale



BLOCK PLAN [1:1000]