



Appeal Decision

Site visit made on 26 November 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Appeal Ref: APP/W1850/X/24/3349024

Log Cabin, Redwood Orchard, Redwood Lane, St Michaels, Tenbury Wells, Herefordshire WR15 8TL

- 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 Ms Brigid Eakins against the decision of Herefordshire Council.
 - The application ref 233402, dated 13 November 2023, was refused by notice dated 22 January 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is alterations to existing log cabin to comply with the definition of a caravan.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. An application under S192(1)(b) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful. The parties must make their own case; it is not for me, as the decision-maker, to make it for them.
4. The appellant contends that planning permission is not required to build a caravan 'from scratch' on site. Reference is made to case law that confirms a caravan can be constructed from scratch on the land and, providing it is used ancillary to the lawful use of the land, it would not constitute development and therefore planning permission would not be required. However, I have not been presented with any such case law.
5. The Caravan Sites and Control of Development Act 1960 (the Caravans Act) defines a caravan as 'a 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)'.
6. The Caravan Sites Act 1968 defines a twin-unit caravan as '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)'. It goes on to state that a caravan shall not exceed 20m in length, 6.8m in width and 3.05m in height.

7. Drawings were submitted with the application which appear to be of the existing log cabin. In the absence of any other drawings it is reasonable to conclude that the proposal would be identical in its appearance to the existing log cabin and therefore the drawings are considered to be existing/proposed.
8. In the absence of any detail as to what the alterations to the log cabin would comprise in order for it to be considered a caravan, it is not possible to ascertain whether the proposal would satisfy the definition of a caravan or that it would not exceed the maximum dimensions of a caravan, with particular regard to its height.
9. Moreover, there is no dispute that the lawful use of the appeal site is agriculture. If there was sufficient evidence to demonstrate the proposed alterations would create a caravan, in order for a certificate to be issued, the caravan would have to be used ancillary to the lawful use of the land. The drawings submitted indicate the layout of the caravan to be of a residential nature with bedrooms, kitchen, living room and bathroom. Therefore, it would evidently not be used ancillary to the agricultural use of the land but would likely result in a material change of use of the land to residential, which would not be lawful.
10. I find therefore, the evidence before me fails to satisfactorily demonstrate the proposed alterations would meet the definition of a caravan that would be used ancillary to the lawful use of the land.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of alterations to existing log cabin to comply with the definition of a caravan is 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.

A Walker

INSPECTOR