



Appeal Decision

Site visit made on 25 February 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/J0540/X/23/3330648

Thatch Cottage, Tallington Road, Bainton, Stamford PE9 3AF

- 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 E Chamberlain against the decision of Peterborough City Council.
 - The application ref 23/00582/CLP, dated 12 May 2023, was refused by notice dated 14 August 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the stationing of a mobile home within the residential curtilage of the dwellinghouse for purposes ancillary to the main use of the host dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Two appeals are before me in relation to the same site. In addition to this appeal I have also determined an appeal against the refusal to grant planning permission for the same development. However, whilst linked, the two forms of appeal are quite different in nature so I have issued each decision in a separate letter.

Reasons

3. As with any application or appeal relating to a Certificate of Lawfulness for Proposed Development (CLOPUD), the planning merits of the proposal are not relevant to my decision. The main issue is whether the proposed use would have been lawful at the time the application was made and whether the Council's decision to refuse to grant a certificate was well-founded based on relevant facts and any relevant judicial authority. The onus rests with an appellant to make their case, on the balance of probability.
4. The parties agree that the proposed unit would constitute a caravan¹. Based upon the recognised three tests relating to size, means of construction and mobility, I see no reason to take a different view. Thus, no building operations would be involved in the proposal as the siting of a caravan amounts to a use of land. The Council contend that the use of the mobile home would not be ancillary to the use of the main dwelling such that a material change of use would occur.
5. When assessing whether a material change of use would occur, the first step is to examine the relevant planning unit. In this case, the planning unit presently

¹ Within the definition set out within the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

comprises Thatch Cottage and its associated garden/ curtilage. The cottage is modest in scale with two bedrooms at first floor level and living accommodation below. The garden is substantial and an existing mobile home is sited within it, to the rear/ side of the dwelling, along with a number of outbuildings including the garage which would be demolished to make way for the proposed mobile home. A Certificate of Lawful Use or Development (CLOPUD) was granted by the Council for that mobile home in 2016 on the basis that they were satisfied that its use would be ancillary to the primary use of the dwellinghouse.

6. At that time, the mobile home was to be occupied by one of the appellant's daughters and their son-in-law who would help with the care needs for the appellant and his wife. The arrangement has now switched such that the appellant and his wife have moved into the mobile home (which is more manageable in terms of mobility and accessibility) and their daughter, son-in-law and young family have moved into the main dwelling. Nonetheless, the family unit and circumstances remain broadly the same and there is no suggestion that the occupation of the existing mobile home by the appellant and his wife is unlawful.
7. Whilst the Council and the appellant are satisfied that the existing mobile home is occupied in a manner that is "ancillary" to the main dwelling it is worth discussing that terminology to understand the context in which the parties use the word. Planning practitioners often use the terms "incidental" and "ancillary" interchangeably but they do not necessarily mean the same thing.
8. Under s55(2)(d) of the Town and Country Planning Act 1990 (the Act), the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose "incidental" to the enjoyment of the dwellinghouse does not amount to an act of development. The primary function of a dwellinghouse is to provide residential accommodation and an incidental use is one which is related to that function. For example, a typical garden shed to store items related to the upkeep of the building and garden. However, if a caravan is used to provide additional living accommodation, bedrooms, kitchen and a living room it would represent an extension of the primary living space as opposed to a use which is incidental in nature.
9. As such, the use of the mobile home would not be excluded from the definition of development by virtue of s55(2)(d) of the Act. However, when the parties refer to the existing mobile home being "ancillary" to the existing dwellinghouse they do not mean that it would have an incidental purpose. Rather, they infer that the living accommodation is functionally and physically related to and subordinate to the dwellinghouse which remains the primary use of the land. That is the context in which I have understood the phrase as used by the parties in this case. The question is whether the introduction of a second mobile home for occupation by the appellant's other daughter would result in a material change of use.
10. It appears to me that could come about in two main ways. The first would be if the mobile home was used independently of the main dwelling in a manner that would lead to the formation of a new and separate planning unit. Under that scenario, planning permission would be required for the material change of use of land, effectively for the formation of a caravan site for the siting and residential use of the caravan. Alternatively, it could be the case that the planning unit remains as one but that the character and use of that planning unit changes to an extent that is materially different to the existing lawful use.

11. In terms of the first scenario, the mobile home would be sited within the garden, with no separate access, no segregated garden of its own, no independent postal address and the metering and utilities would be linked to the main dwelling and not separate from it. The occupants would seemingly live as an extended family unit. The daughter would help with caring for her parents, help with babysitting for her sister's children and maintaining the garden and has a close relationship with the existing occupants of the site. No clothes washing facilities would be available in the caravan such that the main dwelling would be utilised for that purpose. Socialising would occur and meals would be taken in the main dwelling at least some of the time.
12. Consequently, the fact that the mobile home would be equipped with all of the facilities required for day to day living does not entail that it would be occupied as a separate and independent planning unit. In my view, the physical and functional links are such that the site would still be occupied as a single planning unit with the extended family living together. Whilst the present case relates to the occupation of a caravan and not a building, the principle is the same as that established in the *Uttlesford* judgment to which I have been referred².
13. That leaves the question of whether the introduction of the second mobile home would materially alter the use of the planning unit as a whole. The existing primary use of the planning unit is a dwellinghouse falling within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). In granting a CLOPUD for the existing mobile home in 2016, the Council accepted that the use of the land for the siting of that unit was ancillary to the primary use as a dwellinghouse. In other words, its introduction did not lead to a material change of use from use class C3.
14. In planning terms, the stationing and use of a caravan for the purposes of human habitation represents a use of land as a caravan site³. Whilst both uses comprise a residential use, the characteristics of each are notably different, not least in terms of form and appearance, caravans being prefabricated utilitarian structures and dwellinghouses having a more permanent and substantial appearance. Use of land as a caravan site does not fall within any specific use class of the UCO.
15. The introduction of an additional mobile home would undoubtedly alter the balance between the use of the site as a dwellinghouse and the residential use as a caravan site. The scale of accommodation on the site provided by the mobile homes would be greater than that provided in the dwelling. The dwelling contains two bedrooms in the thatched roofspace with accommodation below. Each caravan would contain two bedrooms, with separate living areas, bathrooms and kitchens.
16. The plans show that the footprint of the existing caravan is broadly comparable to that of the dwellinghouse. The proposed unit would be shorter in length but wider than the dwelling but again, broadly comparable in terms of footprint. Purely in terms of scale, the caravans would become the primary form of accommodation as opposed to the dwellinghouse. That is an indicator of a material change in itself.

² *Uttlesford DC v SSE & White* [1992] JPL 171

³ As per the definition of a Caravan Site at s336(1) of the Town and Country Planning Act 1990 & Section 1(4) of the Caravan Sites and Control of Development Act 1960.

17. The mobile home would have a utilitarian and domestic appearance that would be notably different to that of the dwelling or existing outbuildings including the garage which would be demolished to make way for it; the arrangement of fenestration, nature and style of the cladding materials and the presence of downpipes and flues would mark it out as a prefabricated residential structure, compared to the garage which has a simpler, more functional appearance, typical of incidental outbuildings.
18. The property is set back from Tallington Road, accessed via a driveway of some length, with mature hedgerows lining either side of the entrance. However, views of the mobile home from public vantage points would still be available, as would views from neighbouring properties. There would be a notable contrast between the prefabricated appearance of the mobile homes and the vernacular style of the dwellinghouse. The result of two large mobile homes within the garden, either side of the Grade II listed thatched cottage, would undoubtedly have a material effect on the appearance of the site. As well as becoming the primary form of accommodation in terms of floorspace, the caravans would become a dominant visual presence on the land.
19. The planning merits of a proposal are not at issue when assessing whether a use would be lawful, nor am I required to assess the effect on the setting of the listed building, as would be the case when determining a planning application. However, the effect on the character of the area is relevant in considering whether there would be a *material* change of use. I make no comment on whether the change would be positive or negative but the addition of a second mobile home would materially affect the character of the site in my view.
20. That assessment is made on the basis of the proposed location of the unit, as set out on the submitted plans. However, a CLOPUD relates to the use of land within the curtilage of the property as opposed to the erection of a building. It may be that the mobile unit could be positioned elsewhere within the garden although the nature of the plans is very specific in terms of location and that is what is before me. In any event, wherever in the garden a unit was sited, it would not alter the fact that the balance between residential occupation of mobile homes and occupation of the dwelling would change significantly such that the caravans would become the primary form of accommodation.
21. The Council has stressed that the care provided by the daughter occupying the new mobile home would be for the benefit of the parents who live in the existing mobile home as opposed to her sister and family who occupy the dwelling. I am not convinced that has a significant bearing on whether a material change of use would occur, of itself. It is not uncommon for adult children to move back home at points in their lives and the family would still live as a single family group. However, it does emphasise the extent of accommodation that would be provided within the mobile homes with the parents and one child living in separate units at opposite sides of the garden and the other child and her family in the dwelling; a comparatively dispersed pattern of occupation in contrast to the original occupation of the dwellinghouse as a primary living space.
22. I have not been provided with any legal authority which imposes a limit on the number of caravans or mobile homes that may be occupied in association with the residential use of a dwellinghouse before a material change of use would occur. Such matters will always be fact sensitive and dependent on the circumstances of a given case. Nonetheless, if the number of units and scale of accommodation in

mobile homes increases comparative to the scale of the existing dwellinghouse, there will inevitably reach a point where the character of a site is no longer simply a dwellinghouse within Class C3 but a mixed use between a dwellinghouse and use as a caravan site.

23. In my view such a change would be brought about by the introduction of a second mobile home in this instance, for the reasons set out above. I accept that comings and goings to the property would not be affected to any significant degree but, nonetheless, the overall character of the site would be materially altered.
24. I have considered the appeal decisions referred to by the appellant. Two of those related to the siting of a single caravan and can be distinguished from the present appeal on that basis. The third is of some vintage, dating back to 2009⁴. The fact that no other more recent examples of a similar type of proposal for multiple mobile homes within a residential curtilage is perhaps an indication that the grant of a CLOPUD for such development is uncommon. In that example the Inspector found that two adult sons, each occupying a caravan in the domestic curtilage of a dwelling for sleeping accommodation and entertaining friends would not result in a material change of use. It appears that all meals were to be taken and laundry done in the main house and there would be no separate metering or utility bills etc.
25. Therefore, the specific circumstances were somewhat different. Moreover, the Inspector only considered the question of whether the occupation of the caravans would result in the formation of a separate planning unit. There was no analysis of whether or how the caravans would impact upon the character of the established planning unit. In my view, that is a necessary step. In this case, I have found that a material change of use of the planning unit would occur from a primary use as a dwellinghouse to a mixed use of dwellinghouse and the use of land for the siting and residential occupation of caravans (caravan site). It follows that development would occur, as defined by s55(1) of the Act. No planning permission has been granted for that development which would not be lawful.
26. Therefore, the Council's refusal to grant a CLOPUD was well-founded and the appeal shall be dismissed. I will exercise accordingly the powers transferred to me in section 195(3) of the Act (as amended).

Chris Preston

INSPECTOR

⁴ Appeal reference APP/P2365/X/09/2109940