



Appeal Decision

Site visit made on 16 April 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

Appeal Ref: APP/P3040/X/24/3352096

Trudos, Trent Side, Barton in Fabis, Nottinghamshire NG11 0BL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ryan Taylor against the decision of Rushcliffe Borough Council.
 - The application ref 24/00245/CLUEXD, dated 12 February 2024, was refused by notice dated 14 June 2024.
 - The application was made under section 191(1)(a) of the 1990 Act.
 - The use for which an LDC is sought is described as: The former caravan and ancillary building have been in continuous residential use for at least four years and Trudos has been continuously used for residential purposes for a period exceeding ten years.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's refusal to issue an LDC was well founded. The responsibility for providing sufficient information to support an LDC appeal primarily rests with an appellant. However, if no other evidence contradicts or otherwise makes their version of events less than probable, and provided their evidence is sufficiently precise and unambiguous, there is no good reason to withhold an LDC.

Reasons

3. Section 191(2) of the 1990 Act provides that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them; and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no evidence that any of the matters for which an LDC is sought contravenes any requirement of an enforcement notice.
4. On the date the application was made, section 171B of the 1990 Act provided that no enforcement action could be taken in respect of:
 - Operational development that had been substantially completed more than 4 years beforehand. In this case, this means the substantial completion, on or before 12 February 2020, of works that resulted in a caravan stationed on the land becoming a building.
 - A change of use of a building, in this case the one claimed to have been formed from a caravan and an ancillary timber building, to use as a single dwellinghouse 4 years beforehand, meaning on or before 12 February 2020, and which continued thereafter without significant interruption.

- Any other breach of planning control, in this case the change of use of the land to residential use, that had begun 10 years beforehand, meaning on or before 12 February 2014, and which continued thereafter without significant interruption.

Operational development

5. Except where I refer to a party's stated position or a settled fact, I shall use the neutral description of 'structure' to describe what the Council considers to be a caravan and what the appellant contends is a building.
6. Section 29(1) of the Caravan Sites and Control of Development Act 1960 ("the 1960 Act") defines a caravan as *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) and any motor vehicle so designed or adapted*. The definition also excludes railway rolling stock and tents, which the structure is evidently not.
7. The definition of a building in section 336(1) of the 1990 Act includes *any structure or erection* and case law¹ identifies that whether something is a building depends on 3 factors: its size, its permanence and its physical attachment to the ground.
8. The structure was a static caravan when it was brought onto the land in February 2019. Before that, the main feature of the appeal site was a steel frame resting on a concrete pad, supporting a building that the appellant calls 'the ancillary building' and an area of decking above. Three Statutory Declarations (SDs) confirm that the static caravan was attached to the steel frame in March 2019.
9. That attachment is primarily to 2 steel beams welded to the main section of the steel frame and which project toward the river. The beams are supported on steel legs that rest on the concrete pad at one end and are set into the ground at the other. While there is blockwork beneath the structure and the beams, the appellant states that this was installed to allow the structure to be attached to the beams. He contends it no longer provides support to the structure and could be removed.
10. The structure is set perpendicular to the 2 beams and is welded to them in the 4 places where its chassis touches them. Further stability is provided by scaffolding poles that extend from the main section of the steel frame and are bolted to the underside of the structure. The structure's connections for electricity, water and waste are those typically made to static caravans and therefore could be disconnected to facilitate movement.
11. The scaffolding poles would need to be unbolted, and the welded joints would need to be cut, possibly with an angle grinder, so that the structure could be lifted off the steel frame and moved away. The presented evidence and my inspection of the structure do not suggest those actions would be unfeasible or unduly onerous. Accordingly, it is probable that, with appropriate preparatory work, the structure could be detached from the steel frame, lifted off, and transported on a motor vehicle or trailer. Furthermore, the caravan axle has not been removed, so it may also be feasible to reattach wheels and tow the structure.

¹ *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385 and *Skerritts of Nottingham Ltd v SSETR* (No.2) [2000] 2 PLR 102.

12. It has therefore not been demonstrated, on the balance of probabilities, that the structure is incapable of being towed or transported on a motor vehicle or trailer from one place to another, subject to reasonable preparatory measures being undertaken. Accordingly, it has not been demonstrated, as a matter of fact and degree, that it is not a caravan, as defined by the 1960 Act.
13. Turning to the first of the 3 factors relevant to determining whether something is a building, its size, it is fact that the structure was brought onto the land in one piece and as a static caravan. It has not been enlarged since, so its size cannot preclude it from being moved, or from being something other than a building.
14. Like the question of whether it is a caravan, the second factor, permanence, is bound up with whether the structure could be moved, and if so how. The structure has been fixed in its current position for over 6 years but, as before, the amount of preparatory work that would be necessary to allow separation from the steel frame does not appear unduly onerous. Subject to that work being done, removing the structure would appear feasible.
15. The third and final factor is the structure's physical attachment to the ground. As noted, its attachment to the ground is made by an intervening steel frame, and it has not been shown that it would be unduly onerous to separate the two.
16. It has therefore not been demonstrated, as a matter of fact and degree, that the structure became a building, as defined by the 1990 Act, by reason of operational development. Accordingly, it was most probably a caravan on the date the application was made.

Use as a single dwellinghouse

17. Even if the attachment of the static caravan to the steel frame had resulted in a building, the appellant's evidence would demonstrate that the building has only ever been used as a single dwellinghouse. This is important because section 171B(2) of the 1990 Act affords immunity from enforcement action to *the change of use* of a building to use as a single dwellinghouse. Because the claimed use of a building as a single dwellinghouse did not arise through a change of use, section 171B(2) cannot confer immunity from enforcement action.
18. Similarly, no evidence that the current use of the ancillary building arose through a change of use has been presented. Therefore, any use of that building as a single dwellinghouse could not have gained immunity from enforcement action by reason of section 171B(2).
19. In these circumstances, it is necessary to consider whether the residential use of the land, which would include the stationing of a caravan for human habitation, was immune from enforcement action on the date the application was made.

The residential use of the land

20. The claim of 10 years' residential use of the land is dependent on evidence from before the appellant used it. An SD made by Lester White confirms that he lived on a boat moored adjacent to the appeal site from March 2013 to November 2018, a period of less than 10 years. It appears that the mooring, the part of the river where a boat moored to it would lie, and the appeal site were in common ownership at the time. Mr White declares that he used the ancillary building as a games room and laundry and the rest of the appeal site as a garden and for parking during that

period. Aerial images taken since 2010 suggest that the appeal site has been consistently used for car parking and maintained with the appearance of a domestic garden.

21. The appellant states that the ancillary building “amounts to a dwelling and has been in residential use for over 10 years.” The 1990 Act does not define a dwellinghouse, or dwelling, but the courts have held that a dwellinghouse must afford the facilities required for day-to-day private domestic existence to those who use it.² The same must be true of a dwelling, for example a flat. I saw that the ancillary building does not contain a kitchen, bathroom or toilet and it therefore does not afford the facilities required for day-to-day private domestic existence.
22. Furthermore, the 10-year period during which it is claimed the ancillary building was a dwelling must include some of the time when Mr White used it as a games room and laundry. His SD does not demonstrate that the facilities that are essential to day-to-day private domestic existence were installed in the building then; it seems clear that they were mostly, if not entirely, on the boat. Accordingly, the evidence does not demonstrate that the ancillary building is or has ever been a dwelling.
23. The claimed 10 years’ residential use of the appeal site could therefore only be in association with Mr White’s residential occupation of the boat and by reason of the appellant’s subsequent residential occupation of the caravan sited on it.
24. The Council refers to an appeal decision³ which indicates that a houseboat is not a building and so cannot be a dwellinghouse for the purposes of exercising certain permitted development rights.⁴ It is not clear how that assists with whether the appeal site was in residential use, a use that is not exclusive to a dwellinghouse.
25. The evidence shows that Mr White used the site in association with or incidental to his residential occupation of the boat he moored next to it. While a boat does not have a curtilage for the purposes of exercising certain permitted development rights, Mr White’s SD confirms that he used the appeal site in a domestic manner.
26. The land has a domestic appearance in the only aerial image from the period of Mr White’s occupation. While the image is said to have been taken in December 2014, it shows trees in full leaf and the precise date is therefore doubtful. Nevertheless, it is evidently from before the caravan was brought onto the land. While the boat is not present in the image, that may not be decisive; it is reasonable to assume that a person living on a boat will use it to travel from time to time. On the available evidence, I cannot describe Mr White’s combined use of the boat and the appeal site as anything other than a residential use.
27. There has, however, been a change in the unit of occupation since then. The unit occupied by Mr White comprised the appeal site, along with the adjacent part of the river, which accommodated the mooring and his boat. The appeal site did not include all the facilities necessary for residential use at that time, so it could not be used residentially on its own. In contrast, the unit occupied by the appellant is restricted to the appeal site and, following the introduction of the caravan, all the facilities necessary for residential use are sited on it.

² *Gravesham BC v SSE & O'Brien* [1983] JPL 306.

³ APP/V2255/C/19/3225341, dismissed 28 October 2019.

⁴ By reason of Article 3(1) and Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

28. While the appellant has provided documents produced by the Land Registry, some of the accompanying plans are missing. Nevertheless, it may be that he owns the same land that Mr White occupied, including the mooring and the adjacent section of the river. However, my decision must turn on the use of land, not its ownership.
29. Viewed from that perspective, there was a substantial change in the planning unit during the 10-year period in which immunity from enforcement action would normally accrue.
30. Prior to 2019, the appeal site was part of a larger unit of occupation that included the adjacent part of the river, and a boat moored there. Residential use was only possible at that time because of the facilities on the boat moored alongside, but crucially outside the appeal site. Since 2019, the unit of occupation has shrunk to comprise the appeal site only, made possible by the siting of the caravan.
31. These substantial changes reconfigured the planning unit and the character of the residential use and in doing so, they opened a new chapter in the appeal site's planning history. Furthermore, they were sufficiently fundamental to break the continuity of residential use involving the appeal site, from being incidental to an off-site dwelling to a self-contained residential use in its own right. This was a substantial change that reset the clock, such that a continuous 10-year period of use of the same character, necessary for immunity from enforcement action, has not been achieved.

Conclusion

32. For the reasons given above, I conclude that the Council's refusal to grant an LDC for "The former caravan and ancillary building have been in continuous residential use for at least four years and Trudos has been continuously used for residential purposes for a period exceeding ten years" 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.

Mark Harbottle

INSPECTOR