

## Appeal Decision

Site visit made on 18 May 2025

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

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**APP/C1625/X/24/3348524**

**75 Bondend Road, Upton Saint Leonards, Gloucestershire GL4 8EA**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by Stroud District Council to grant a certificate of lawful use or development.
- The appeal was made by Mrs Tracey Tickner.
- The application, reference S.21/2572/CPL, was submitted on 27 October 2021. It was refused by a notice dated 15 December 2021.
- The Application for a Certificate of Lawful Development was for: Use of the land for siting a mobile home for use ancillary to the main dwelling at No. 75 Bondend Road, Upton Saint Leonards, Gloucestershire GL4 8EA.

**Summary of decision: The appeal is dismissed.**

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### Appeal property and application

1. The appeal property, No. 75 Bondend Road, is a 2 storey dwelling, part of a block of 3, including Nos. 71 and 73, at the end of a short cul-de-sac off Bondend Road in Upton Saint Leonards. The application concerns land, claimed to be garden land to No. 75 and said by the Appellant, Mrs Tickner, to be curtilage land to No. 75. It is an area of about 250m<sup>2</sup>, (my estimation). The dwelling at No. 75 is not surrounded by the application land, rather it extends northwards from a point at the north-western corner of the house. Access to this land passes close to the front of the adjoining No. 73 dwelling.
2. Mr and Mrs Tickner wish to install a mobile home on the appeal land to provide accommodation for aging parents. Mrs Tickner said the stationing of a mobile home within what was claimed to be the residential curtilage of No. 73, for purposes ancillary to the main use of the host dwellinghouse, would not constitute development nor result in a material change of use of the land, (s.55 of the Act). Stationing the mobile home there would not require planning permission.
3. The Council said the application land was a separate parcel of land physically outside the residential curtilage of No. 75 Bondend Road. Siting the mobile home on this land would not constitute a lawful ancillary use. Planning permission would be required.
4. For Mrs Tickner's appeal to succeed it has to be shown that the land the mobile home would be sited upon is part of the curtilage of her home at No. 75 Bondend Road. It would also need to be shown that her mobile home project would be a use of the land within the domestic curtilage of the dwelling, for example by the mobile home held to be the stationing of a caravan. Or, otherwise should it amount to the erection of a building, it would need to be development permitted by Article 3, Schedule 2, Part 1, Class E(a), of The Town and Country Planning (General Permitted Development), (England) Order 2015), (the Order), where the use of the building was to be incidental to the enjoyment of the dwellinghouse.

## Considerations

### *Curtilage*

5. The use of land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such is exempted from development under s.55(2)(d) of the Act. The Ministry of Housing, Communities and Local Government technical guidance September 2019 – Permitted development rights for householders, defines Curtilage as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden.
6. Interpretation of the word curtilage is not a matter of law, but a judgment for the decision-maker given the ordinary meaning of words, (as the Court cases of *Brutus and Cozens* [1973] AC854 and *Dyer v Dorset CC* [1988] 3 WLR 213 determined). It is a matter of fact and degree, (*Burford v SSCLG & Test Valley BC* [2017] EWHC 1493). In the Court of Appeal decision in *HM Attorney-General ex rel Sutcliffe & Rouse & Hughes v Calderdale BC* [1983] JPL, it was held 3 tests, (i) physical layout, (ii) ownership (past and present) and (iii) use or function (past and present) applied.
7. In *Methuen-Campbell v Walters* [1979] 1 QB 525, the Court of Appeal agreed that, for land to fall within the curtilage of a building, it must be intimately associated with the building to support the conclusion that it forms part and parcel of the building. The *Burford v SSCLG* [2017] EWHC 1493 (Admin) judgement endorsed the view that curtilage is an area of land ‘attached to’ a house and ‘forming one enclosure with it’. In *Lowe v SoS* [2003] EWHC 537 Admin, curtilage ‘connotes a building or piece of land attached to a dwellinghouse and forming one enclosure with it. It is not restricted in size, but it must fairly be described as being part of the enclosure of the house to which it refers’. In *Dyer*, Nourse LJ further discussed the meaning of curtilage by reference to the Oxford English Dictionary definition: “A small court, yard, garth or piece of ground attached to a dwelling-house, and forming one enclosure with it, or so regarded by the law; the area attached to and containing a dwelling-house and its outbuildings.”. Nourse LJ then accepted the proposition drawn from the authorities in that case that “an area of land cannot properly be described as a curtilage unless it forms part and parcel of the house or building which it contains or to which it is attached.”.
8. Relating that background to the present instance, I note the Appellant’s description of the appeal land as being physically separate from the dwelling at No. 75 Bondend Road. It was nevertheless used as the garden and amenity area to No. 75. Its use included growing fruit and storing waste and recycling bins. I accept it may be that those matters meet the curtilage test of ownership and use or function, (tests ii and iii para. 6 above). However, no part of the boundary to the appeal land adjoins the dwelling at No. 75 Bondend Road. At a point at the north-western corner of the dwelling the building only touches a point at the south-eastern corner of the appeal land. It means that the application land fails the test set out by Nourse LJ in *Dyer* that “an area of land cannot properly be described as a curtilage unless it forms part and parcel of the house or building which it contains or to which it is attached.”, (para 7 above). Indeed, the somewhat unusual layout of the 3 houses, Nos. 71, 73 and 75 appears to show that No. 73 stands closer to the appeal land than does No. 75.
9. The physical layout test to define a residential curtilage is not met. I conclude the Council were right to say the appeal land is a separate parcel of land physically outside the residential curtilage of No. 75 Bondend Road and that the permitted development rights conferred by Schedule 2, Part 1 of the Order are not available for the proposed use of the land or for the erection of a building on the land.

*Mobile home project*

10. Although my conclusion on the curtilage to Mr and Mrs Tickner's home disallows the issue of a certificate of lawfulness, the application specified an intention to site a mobile home for use ancillary to the main dwelling at No. 75 Bondend Road on the application land. That requires me to come to a view on the matter.
11. The Council accepted that "the mobile home would appear to meet the definition of a 'caravan' as described in the 1960 Caravan Sites Act. The works are therefore considered to fall within the definition of a twin-unit caravan and not constitute operational development". Mrs Tickner said the caravan would not constitute operational development. Its siting would not require planning permission. It would comply with size limitations to meet the legal definition of a caravan. It would also conform with the mobility test of how it would be constructed and transported. It would not be affixed to the ground.
12. It may be the Council appropriately assessed compliance of the proposed mobile home with s.13(1)(a) and (b) of the Caravan Sites Act 1968 and that it would not be a building as defined in s.336(1) of the Town and Country Planning Act 1990. However, there is insufficient information before me on any requirements for operational development for such matters as site clearance, surfacing or foundations to secure the mobile home, works to connect services, or an assessment of it being, when assembled, physically capable of being moved by road from one place to another to conclude that the project would meet the Caravan Sites Act section 13 definition of a caravan.

**Conclusion**

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made for Use of the land for siting a mobile home for use ancillary to the main dwelling at No. 75 Bondend Road, Upton Saint Leonards, Gloucestershire GL4 8EA was well founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

**FORMAL DECISION**

14. The appeal is dismissed.

*John Whalley*

INSPECTOR