
Appeal Decision

Site visit made on 20 May 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 02 June 2025

Appeal Ref: APP/C3105/X/24/3350977

The Log Cabin, The Woodyard, Bainton, Bicester, Oxfordshire OX27 8RL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Alexander Blake against the decision of Cherwell District Council.
 - The application Ref 24/00658/CLUE, dated 8 March 2024, was refused by notice dated 17 June 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is development of a building and use as a dwellinghouse.
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Summary Decision: the appeal is dismissed

Procedural Matters

1. The address of the appeal site is variously given as 'The Log Cabin' (Application Form and Council's Decision Notice) and 'Lake View' (Appeal Form). I have used the former in the header above, but from reading the evidence I am satisfied that these descriptions both relate to the same site.
2. The time limits for taking enforcement action are set out in section 171B of the Town and Country Planning Act 1990 (1990 Act). With effect from 25 April 2024, the time limits for taking enforcement action changed pursuant to the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 (2024 Regulations). The events to which this LDC application relate took place prior to 25 April 2024 and are therefore unaffected by the changes instigated by the 2024 Regulations.

Background

3. It is helpful to set out the agreed facts at the outset. The appeal relates to a mobile home with a lean-to addition on one side. The appellant refers to the two elements combined in neutral terms as a 'structure'. I will adopt that term.
4. The Council considers that the lean-to element of structure constitutes operational development for the purposes of section 55(1) of the 1990 Act, and that it has been on site in a substantially complete form for a period in excess of four years. The Council therefore recognises that pursuant to the time limits for taking enforcement action set out in section 171B(1) of the 1990 Act as in

force prior to 25 April 2024 the lean-to structure is now considered to be immune from enforcement action. I see no reason to take a different view.

5. There is no dispute that the mobile home element of the structure meets the definition of a caravan as set out in Section 29(1) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act), being defined there 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.
6. The caravan also meets the definition of a twin-unit caravan in section 13(1) of the Caravan Sites Act 1968 (the 1968 Act). A twin-unit caravan is defined there 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), shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the 1960 Act by reason only that it cannot lawfully be so moved on a road when assembled.

Reasons

7. Section 191(4) of the 1990 Act indicates that if, on an application under that section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operation or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case shall refuse the application. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development would have been lawful on the date on which the application was made.
8. This appeal raises two main issues: (a) whether the structure is a building and (b) whether the mobile home can be considered a moveable structure required temporarily in connection with and for the duration of operations being carried out on land under Class A, Part 4, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). It is convenient to consider (a) in the first instance.

Whether the structure is a building

9. Section 336(1) of the 1990 Act defines a 'building' as including any structure or erection and any part of a building, but not plant or machinery comprised within a building. In *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102, the Court of Appeal identified three primary factors as being decisive of what was a building: size, permanence and physical attachment. The courts have held that 'permanence' does not necessarily connote that the state of affairs is to continue forever or indefinitely. The courts have held that none of these factors

are necessarily decisive in themselves, although more weight may be afforded to any one factor in certain circumstances.

10. In terms of size, the structure is relatively substantial. In terms of permanence, there is no dispute that structure itself has been in position for excess of ten years. The structure therefore has a degree of permanence to it. Neither of these factors are controversial. The difference between the parties is the degree to which the two elements are physically attached, and therefore whether they form a single entity: in other words, whether the structure is a single building.
11. The lean-to element comprises a utility room and conservatory that share a metal frame, secured to the ground by metal posts embedded within concrete. The lean-to element is therefore physically attached to the ground. However, that is not itself determinative and would count for nothing unless the two elements of the structure are joined together in a way that is permanent and substantial, such that they could not be easily separated.
12. There is a narrow passageway separating the utility room/conservatory from the mobile home. The utility room/conservatory and the passageway are covered by the same plastic sheet roofing. At the site visit, I paid particular attention to whether the plastic sheet roofing was fixed to the mobile home, including viewing from the steps to the door of the mobile home in order to get a closer view. I could not discern any means by which the plastic roofing was physically attached and affixed to the mobile home by way of, for example, bolts or screws. The plastic roof appears to simply sit unattached beneath the eaves of the mobile home. This is the only means of 'connection' between the lean-to element and the mobile home, the metal framework to the lean-to element being physically independent of the mobile home.
13. In *Skerritts*, the Court of Appeal was primarily considering attachment to the ground when contemplating the matter of physical attachment. However, in my view there is no reason why the same principles should not apply to the means by which two elements of a structure are physically attached to form a 'building'.
14. The definition of a caravan in the 1960 Act is that the caravan itself must be capable of being moved from one place to another. The mobile home could be detached from the lean-to addition relatively easily. There would be no need for the lean-to element to be dismantled and removed in its entirety. The structural support for the lean-to element would continue to be provided by the metal framework that is securely attached to the ground. The two elements are therefore severable. The lean-to element could remain as a building in its own right. The mobile home would then be capable of being moved away from it.
15. I conclude that, as a matter of fact and degree, the two elements that comprise the structure are severable, comprising a building and a caravan that do not form a single entity. I therefore conclude that, as a matter of fact and degree, the structure as a whole is not a building.

Whether the caravan can be considered a moveable structure required temporarily in connection with and for the duration of operations being carried out on land under Class A, Part 4, Schedule 2, Article 3 of the GPDO

16. Class A, Part 4, Schedule 2, Article 3 of the GPDO provides that the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be

- carried out on, in, under or over that land or on land adjoining that land is permitted development, where the operations are not mining operations and where planning permission has been granted.
17. In May 2020, planning permission was granted for an essential worker dwelling to replace the mobile home (Council Ref: 10/00461/F). It was following the grant of that permission that the mobile home was moved to its current position, and the lean-to element then added to it, having been lawfully occupied in a different position on the site through a series of temporary planning permissions.
 18. The Council accepts that the mobile home was occupied by Mr & Mrs Blake whilst their new essential worker dwelling was being constructed. The Council also accepts that on site accommodation (the mobile home) was required temporarily in connection with the construction of the essential worker dwelling. The mobile home did therefore constitute a moveable structure required temporarily in connection with and for the duration of operations being carried out on land. It follows that the occupation of the mobile home by Mr & Mrs Blake during the construction works for the essential worker dwelling constituted permitted development under Class A, Part 4, Schedule 2, Article 3 of the GPDO, and as such was lawful in planning terms.
 19. However, that is not the end of the matter. In April 2018, Mr & Mrs Blake vacated the mobile home and took up residence in their new dwelling. In paragraph 8.45 of the Council's Case Officer report, reference is made to a visit by a Planning Enforcement Officer on 3 February 2020. This visit was nearly two years after Mr & Mrs Blake vacated the mobile home. At that time, the mobile home was found to be unoccupied, aside from fitted furniture, and unfurnished with no personal items on display. This evidence is not disputed or challenged by the appellant.
 20. In his Statutory Declaration dated 28 March 2023, Mr Blake explains that the mobile home was *occasionally* occupied by family, family when visiting and friends (emphasis added). Mr Blake further explains that the mobile home was self-contained, and that it remained fully furnished and heated during this time. No documentary evidence has been submitted to corroborate this evidence, in terms of the periods of time during which the caravan was so occupied. It was not until May 2020 that their daughter (Ms Sarah Willis) and her family moved into the mobile home. They have lived there permanently thereafter.
 21. It is settled case law that a use can only become lawful if it continues throughout the relevant immunity period, such that the local planning authority could have taken enforcement action at any time. In this case, there is no dispute that Mr & Mrs Blake were in unlawful occupation of the caravan (as part of the structure) for just under six years between 2012 and 2018. But it was not until nearly two years after Mr & Mrs Blake vacated the mobile home that their daughter took up occupation in May 2020.
 22. This leaves a 'window' of some two years when the caravan was occupied, on the appellant's own evidence, only occasionally. The word 'occasionally' connotes long periods of time when the caravan was not occupied. Indeed, the caravan was vacant when an enforcement officer visited in February 2020. The Council could not have initiated enforcement action at that time, because the use was not taking place then. The same would be true for any of the periods when the caravan was not occasionally used for residential purposes.

23. The two-year period during which the mobile home was only occasionally occupied 'stopped the clock' in terms of the immunity period provided by Section 171B of the 1990 Act. The immunity 'clock' was re-set in May 2020 when Ms Sarah Willis and her family took up permanent occupation. Consequently, the mobile home has only been unlawfully occupied as a dwelling since May 2020. That is only some four years prior to the date on which the LDC application was made.
24. The stationing of the caravan for residential purposes is a use of land. This falls within the category of 'any other breach of planning control' for the purposes section 171B of the 1990 Act. Accordingly, it falls within sub-section 171B(3) of the 1990 Act, for which the period for immunity from enforcement action is ten years. On the evidence before me, the occupation of the mobile home by Ms Sarah Willis and her family only began in May 2020 and therefore had not been carried on continuously for a period of ten years on the date on which the LDC application was made. I therefore conclude that, on the balance of probability, the use of the mobile home for residential purposes (and therefore the structure as whole as a dwelling) was not lawful on the date that the LDC was made.

Conclusion

25. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of development of a building and use as a dwellinghouse at The Log Cabin, The Woodyard, Bainton, Bicester, Oxfordshire OX27 8RL 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 as amended.
26. I have concurred with the Council that pursuant to the time limits for taking enforcement action set out in section 171B(1) of the 1990 Act as in force prior to 25 April 2024, the lean-to element of the structure is now likely to be immune from enforcement action. Section 191(4) of the 1990 Act allows the Secretary of State or an Inspector modify the description of the existing use, operation or other matter for which an LDC is sought in determining an appeal under Section 195 of that Act. I have therefore considered whether I could grant a LDC for that lesser element of the development as part of a split decision.
27. However, that would be substantial deviation from the description of the development for which the LDC was sought. Furthermore, in the absence of a detailed drawing, it would be impossible for me to describe that development with the precision required by the Planning Practice Guidance. Accordingly, it is not open to me to modify the description of development for which the LDC was sought to that extent. This does not preclude the appellant from submitting a fresh LDC to the Council for that lesser development.

Formal Decision

28. The appeal is dismissed.

Paul Freer
INSPECTOR