
Appeal Decision

Site visit made on 6 October 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

Appeal Ref: APP/M2270/X/24/3344565

31 Eridge Road, Royal Tunbridge Wells, Kent TN4 8HR

- 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 and Mrs Cox against the decision of Tunbridge Wells Borough Council.
 - The application ref 24/00748/LAWPRO, dated 13 March 2024, was refused by notice dated 8 May 2024.
 - The application was made under section 192(1)(a) of the 1990 Act.
 - The development for which an LDC is sought is the siting of caravan in the garden for ancillary use to the main residential dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application made by Mr and Mrs Cox against Tunbridge Wells Borough Council is the subject of a separate Decision

Preliminary Matter

3. A decision on whether to issue or refuse to issue an LDC is effectively a determination of whether the proposed development requires planning permission. Any potential effects it may have on the area or on neighbours may only be considered if planning permission is required and subsequently applied for.

Main Issue

4. The main issue is whether the Council’s refusal to issue an LDC was well founded.
5. Notwithstanding some ambiguity in the answers to questions on the application form, the thrust of the appellants’ argument is that the proposal is to site a caravan on the land, which is not operational development. Siting a caravan on land may, however, result in a material change in the use of that land depending on the purpose to which the caravan is put. I shall therefore determine the appeal according to whether the proposed use of the land including the siting of a caravan in the garden for ancillary use to the main residential dwelling would have been lawful if instituted on the date the application was made.
6. This will turn on whether the appellants can demonstrate both of the following, on the balance of probabilities:
 - That the proposed structure is a caravan.

- That siting it in the garden for purposes ancillary to the residential occupation of the dwelling would not result in a material change in the use of the land.

Reasons

Whether the proposed structure is a caravan

7. The definition of a caravan is set out in section 29 of the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”):

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.

8. The definition excludes rolling stock on rails forming part of a railway system and tents, but the structure is evidently neither.
9. The structure would be delivered to the site assembled, indicating that it can be moved from one place to another. The aspect of the 1960 Act’s definition in dispute is whether it would be ‘designed or adapted for human habitation.’
10. Human habitation is generally held to be more than occasional or sporadic human use of a structure. It requires continuity of residential occupation of a structure that is inherently suitable for living in, one that includes all the facilities necessary for everyday domestic existence. The appellants’ intended use of the structure would include a home office/gym with toilet facilities. However, the floor plans do not show any adaptations for this or any other aspect of use but show that the structure would be delivered to the site as an empty shell.
11. Furthermore, no manufacturer’s specifications have been provided, so it has not been demonstrated that the structure would be sufficiently insulated to enable everyday living, particularly at the height of summer and in the depth of winter.
12. The appellants’ intention to install a toilet in the structure is one adaptation that could facilitate human habitation. However, there is no indication that other facilities normally found in caravans and necessary for everyday domestic existence, including for preparing and cooking food and washing, are proposed. In any event, even if more comprehensive adaptations were intended, the evidence indicates they would only be carried out after the structure had been sited on the land. It follows that, when the act of siting the structure on the land took place, it would not be designed or adapted for human habitation. Nor is it evident from the information provided that, if the structure were adapted by installing all the necessary facilities afterwards, it would remain capable of being moved.
13. The Council contends that the structure would be a building. The leading cases in determining whether something is a building¹ identify 3 primary factors: size, permanence, and the degree of physical attachment.
14. The structure would be brought to the site by road intact and lifted into position. That delivery method is commonplace for static caravans, which can be considerably larger. Size is therefore not a decisive indicator that the structure would be a building, even though some buildings are smaller.

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

15. The structure would not be fixed to the ground but would rest under its weight on stone pads that are set into the ground. The intended water and electricity supplies could be rapidly disconnected. These aspects are not unlike a static caravan, so I do not find physical attachment to be a decisive indicator of a building in this case.
16. Turning to permanence, the courts have held² that a marquee that would only be in place for 8 months each year was a permanent structure. The test of permanence applied by the court also had regard to whether it “would normally remain in situ and only be removed by a process amounting to pulling down or taking to pieces.”
17. There is no indication the structure would be used as proposed for a limited period and even if it had been shown that the necessary adaptation for human habitation would not make it immobile, there is no evidence that movement is intended. Considering this, and the effort required to move the structure, even if only within the limited space afforded by the land, it is reasonable to expect it to remain where it is initially sited while it continues to offer a benefit to the resident household.
18. That is likely to be a sufficient period for the structure to be significant in planning terms and be seen as a permanent feature of the land. Deterioration of the structure’s fabric toward the end of its useful life would increase the probability of it being pulled down or taken to pieces, rather than removed intact, at that stage. That would be especially likely if there were limited prospect of it being suitable for reuse elsewhere. Viewed in this way, it is probable that the structure would have a permanent relationship with the land, characteristic of a building.
19. Of the 3 factors, I find the permanence of the structure to be its most significant quality such that, as a matter of fact and degree, it would be a building when sited on the land.
20. For these reasons it has not been demonstrated, on the balance of probabilities, that the structure accords with the 1960 Act’s definition of a caravan. While it may be possible to make adaptations to the structure beyond installing a toilet, thus facilitating human habitation, it is unclear if or when all the work necessary for that would be carried out. Therefore, while the possibility of the structure becoming a caravan in the future cannot be ruled out, it has not been demonstrated that this would occur. In any event, such future adaptation would not alter the fact that the structure had been a building until then.

Whether siting the structure would result in a material change of use

21. Use of the structure for purposes ancillary to the residential occupation of the dwelling would not constitute the introduction of a new land use and there would be no change to the planning unit. Accordingly, there would be no material change of use. However, this does not alter my finding that the structure would be a building when sited on the land.

Other Matters

22. The Council considered whether the structure is permitted by Article 3 and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, I agree with the

² *Skerrits of Nottingham Ltd v SSETR* (No.2) [2000] 2 PLR 102.

appellants that this is not the development for which an LDC is sought, so I shall not consider the matter further.

Conclusion

23. For the reasons given above, I conclude that the Council's refusal to grant an LDC for the siting of caravan in the garden for ancillary use to the main residential dwelling 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