



Appeal Decision

Site visit made on 23 September 2025

by **V Bond LLB (Hons) Solicitor (Non-Practising)**

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Appeal Ref: APP/R3650/X/24/3345266

Warren Lodge, Lombard Street, Shackleford, Surrey GU8 6BH

- 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 H Frazer-Mann against the decision of Waverley Borough Council.
 - The application ref WA/2023/00985, dated 18 April 2023, was refused by notice dated 22 April 2024.
 - The application was made under section 192(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 described as 'Installation of temporary caravan on site'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Officer's Report indicates that the proposed development was not fully completed as at the date of the application. As such, I have referred to a proposed development in my banner heading above albeit that the object described as a 'temporary caravan' was in situ at the date of my site visit.
3. Reference was made by the Council to the case of *Measor*¹ but the judgment was not provided with written submissions. A copy was sent to the appellant for comment and comments made have been taken into consideration.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant a lawful development certificate (LDC) was well-founded. This will turn on whether the development described in the application was lawful as at the date of the application. Planning merits are not relevant to the assessment and the onus is on the appellant to make their case on the balance of probability. If the Council has no evidence of its own to contradict that of the appellant there is no good reason to refuse the application, provided that the appellant's evidence alone is sufficiently precise and unambiguous.

Reasons

Legislation and parties' positions

5. Section 191(2) of the 1990 Act states that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether

¹ *Measor v SSETR & Tunbridge Wells DC* [1999] JPL 182 ('*Measor*')

because they did not involve development or require planning permission, because the time for enforcement action has expired, or for any other reason); and (b) they do not constitute a contravention of the requirements of an enforcement notice.

6. Section 55 of the 1990 Act defines development requiring planning permission as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use (MCU) of any buildings or other land.
7. The appellant contends that the proposal is permitted development (PD) by virtue of Article 3 and Schedule 2 Part 5 Class A of the GPDO² (Class A). Class A states that the use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2 is PD. Paragraph A.2 states the relevant circumstances as those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act³. The appellant relies on the circumstances in paragraph 9 of this Schedule. This is for *'the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations'*.
8. The Council's decision notice indicated that the object proposed did not fall within the statutory definition of a caravan and that it represented operational development. It follows that the Council considers that the proposed development also cannot represent PD under Class A. It appears though from the Officer's Report that the LPA would accept that if it does not represent operational development, it would not represent a MCU by virtue of the operation of s55(2)(d) of the 1990 Act which exempts *'the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such'*.
9. As to operational development, in *Measor* the Deputy Judge said that he would be wary of holding, as a matter of law, that a structure which satisfies the definition of a caravan under s13(1) of the 1968 Act could never be a building for the purpose of the 1990 Act. However, it would not generally satisfy the well-established definition of a building, having regard to factors of permanence and attachment.
10. As such, whether or not an object is a caravan is a useful indicator of whether or not operational development has occurred. I shall therefore firstly assess the object as against the statutory tests for a caravan before considering the tests related to whether or not operational development has occurred.

Whether or not a caravan

11. Section 29(1) of the Caravan Sites and Control of Development Act 1960 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....'*
12. Section 13 of the Caravan Sites Act 1968 is headed 'Twin-unit' caravans and states that:

² Town and Country Planning (General Permitted Development) (England) Order 2015

‘(1) 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 Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely— (a) length (exclusive of any drawbar): 65.616 feet (20 metres); (b) width: 22.309 feet (6.8 metres); (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).’

13. The parties are agreed that the object is designed/adapted for human habitation and I share the appellant’s view that the construction test in s13 of the 1968 Act applies to twin-unit caravans only given that the relevant provision is headed ‘Twin-unit caravans’.
14. As to mobility, the appellant offers no legal basis in support of the contention that a ‘temporary’ object claimed to be a caravan should not be subject to a mobility test. The appellant submits also that the object is not attached to the ground by means of foundations, is raised up on stilts and is not tied to the ground. It is contended that the object is a lightweight four-bay structure with a steel frame that can be readily dismantled and moved on a trailer. It is submitted that it can be taken apart into two sections for moving and that its compliance with the size limits in s13(2) of the 1968 Act is indicative of its mobility.
15. As to the object in question, photographs from the Council appear to show a labour-intensive process of this object being constructed on site from numerous pieces with timber floor joists and roof beams identifiable in the photographs. At my site visit, I saw that the object had been finished with a tiled roof and shiplap external walls.
16. While the object sits on a steel frame and is raised on brick stilts, I have no detailed evidence before me to demonstrate on the balance of probability that it can be moved without structural damage. Compliance with s13(2) size limits is not enough of itself to demonstrate mobility. I therefore find as a matter of fact and degree on the available evidence that the object does not fall within the statutory definition of a caravan.

Whether or not operational development

17. The fact that the object does not fall within the statutory definition of a caravan does not automatically mean that it represents operational development. Connected to whether or not a building operation has occurred, section 336(1) of the 1990 Act states that a “building” includes “any structure or erection”. The Courts have held that regard must be had to size, permanence and degree of physical attachment in

determining whether an item is a building. No single factor is decisive and the assessment is a matter of fact and degree in each case.

18. Turning then to the object in question, as to size, while it appears to have been erected on site, it is of such a size that it could in theory have been brought on site ready-made. That said, it is clearly of substantial size. In terms of attachment the object is elevated from the ground by stilts, is not tied to the ground and attachments to services can likely be swiftly disconnected. It is though held in place by its own significant weight and I have no detailed information to indicate that it could be moved swiftly or easily.
19. As to permanence, this is construed in terms of significance in the planning context i.e. that an item is in situ for long enough to be of significance. The object is described as a 'temporary caravan' which would be in situ while works to the main house are ongoing. It has though as at the date of my site visit been in position for a period of years, rather than weeks, months or days. I also do not have any detailed information that the object could be moved without structural damage.
20. Drawing these matters together, on the evidence before me I find that while the object is small enough to have been brought onto site in one piece, it is held in place by its own significant weight, has been in situ for a period of years and I have no substantive evidence to indicate it could be swiftly or easily moved. I find then that the object is a building and that operational development has occurred. Since planning permission has not been granted for this, there is a breach of planning control and the development described in the application was not lawful as at the date of the application.

Conclusion

21. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for development described as 'installation of a temporary caravan on site' 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).

V Bond

INSPECTOR