



Appeal Decision

Site visit made on 30 September 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2026

Appeal Ref: APP/Z4718/X/24/3351688

**The Old School, Dean Head, Church Lane, Scammonden, Kirklees, Huddersfield
HX4 0EA**

- 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 Mrs Naomi Charlesworth-Helme against the decision of Kirklees Metropolitan Council.
 - The application ref 2024/CL/91461/W, dated 23 May 2024, was refused by notice dated 25 July 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 use of the land for siting a mobile home for ancillary use to the main dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in the name of Mr & Mrs Helme & Charlesworth-Helme, whereas the appeal was made in the name of Mrs Naomi Charlesworth-Helme. Since the appeal was made in the name of Mrs Charlesworth-Helme only, this is the name I have included in the banner heading above.

Main Issue

3. The main issue of the appeal is whether the Council's decision to refuse the certificate of lawfulness is well-founded.

Reasons

4. An application under S192(1)(a) of the Act¹ seeks to establish whether any proposed use of buildings or other land would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
5. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is firmly on the applicant to

¹ Town and Country Planning Act 1990 (as amended)

demonstrate on the balance of probabilities that the proposed development would be lawful.

6. The Council refused the application because it considered the evidence provided does not demonstrate that the proposed structure is not a building for the purposes of the Act or that the development of the land to provide a residential building either benefits from or does not require a grant of planning permission.

Whether the proposal would be a caravan

7. The appellant submitted the application on the basis that the mobile home would meet the statutory definition of a twin-unit caravan within Section 13 of the Caravan Sites Act 1968 (the CSA68). Twin-unit caravans are defined as a structure designed or adapted for human habitation which 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 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).
8. In order to meet the definition of a caravan, the structure must also fall within certain dimensions when assembled. It is not disputed that the proposed structure would meet the dimensions set out in the legislation and on the evidence before me, I see no reason to conclude otherwise.

The construction test

9. In support of their case, the appellant has drawn my attention to a number of appeals, including APP/N1025/C/01/1074589, dated 23 June 2002. I note in that case, that the Inspector concluded that there is no requirement in section 13(1)(a) of the CSA68 that the process of creating the 2 separate sections must take place away from the site on which they are then joined together. The Inspector opined that it is necessary that only the act of joining the 2 sections together should be the final act of assembly. The Inspector in APP/B5480/C/17/3174314 made a similar finding, as did the Inspector in respect of appeals APP/U1240/C/18/3204771 & 3207038.
10. The appellant has also drawn my attention to what they suggest is a similar application that was granted by the Council, reference 2022/CLD/93341/W at Lascelles Hall Road. It is suggested that the construction methodology would be near identical. Photographs provided in support of that application show various stages of construction of the structure, which shows various sections. It seems likely that the proposed mobile home would be constructed of multiple sections on site, before being joined together (termed 'The Final Act of the Build').
11. However, taking this approach requires me to ignore the works leading up to the 'Final Act of the Build', which are likely to involve substantial works carried out by a person carrying on business as a builder and themselves are likely to constitute development². In my view, the proposal must be looked at as a whole. Prior to the 'Final Act of the Build' the structure would be composed of far more than two sections.

² Section 55(1) of the Act states in this Act, except where the context otherwise requires, "development" means 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 of any buildings or other land.

12. The appellant has drawn my attention to the case of *Byrne v Secretary of State for the Environment and Arun District Council* [1997] EWHC Admin 1990, which concerned a log cabin. In that case, it was found that the log cabin was not assembled on site out of two separately constructed sections, which was held to be conclusive that the paragraph (paragraph 13(1)(a) of the 1968 Act) does not apply and therefore the section does not operate to deem the structure as a caravan.
13. While that case makes it clear that in order to meet the construction test, it is necessary for two separately constructed sections to be joined together, I do not believe the fact that it would be composed of a very much larger number of sections can be ignored. The structure would not be composed of not more than two sections: It would be designed to be constructed on site, in multiple sections. The evidence provided does not show, on the balance of probabilities, that the proposed mobile home would meet the construction test.
14. I recognise that this is not the approach taken by the inspectors in respect of the above appeal cases cited, however, I respectfully take a different view.

The mobility test

15. The model of mobile home proposed by the appellant is a Wheatley Extra Plus. Structural calculations have been provided to support the appellant's case that the structure would be mobile and can be lifted without incurring structural damage. In support of their case, the appellant has drawn my attention to *Brightlingsea Haven Ltd v. Morris* [2008] EWHC 1928 (QB) and appeal decisions APP/L5810/X/15/3140569, APP/J2210/X/22/3298471 and APP/J1915/X/11/2159970.
16. In respect of 3140569, the Inspector commented that '*the mobility test does not require a mobile home to be mobile in the sense of being moved on any wheels and axels it may have. It is sufficient that the unit can be picked up in tact (including its floor and roof) and be put on a lorry by crane or hoist.*' The whole unit must be transportable but the illegality of such transportation on the public highway is irrelevant, as is the fact that such a caravan cannot be physically transported along the road leading to the site (a point also made by the Inspector in respect of APP/N1025/C/01/1074589).
17. Appendix K of the Planning Statement includes structural calculations, to assess the framework requirements necessary to sit around the range of garden buildings, such that the home could be lifted from its position as a single unit. The Council makes reference to Appendix K of the Planning Statement that the structure needs supporting steel sections to be "passed below the base of the building to support the floor joist ends" and "These steels will in turn be fixed to two sections running parallel to the front and rear elevation." and "The building will then be lifted by these steels via a steel frame and verticals lowered down from above".
18. A general arrangement is then provided for lifting frames, which shows various beams, and braces would be used to provide, what would effectively be a frame, within which the proposed mobile home would sit, to enable it to be lifted on to a vehicle and transported. Such a frame would be a substantial structure, which, I expect, would need to be constructed on site. It is not clear whether the mobile home could be transported without the frame, though it seems unlikely the frame would be proposed if the mobile home is capable of being moved without it.

19. It is the mobile home which, when assembled, must be 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). It seems to me that most things would be capable of being transported if they were put inside some sort of superstructure to provide structural support. As such, I find that the appellant's evidence does not show, on the balance of probabilities, that the mobility test can be met.
20. Thus, for the reasons set out above, I find that the proposed mobile home would not be a caravan in law.

Whether the proposed mobile home would be a building

21. While I have found that the appellant has not demonstrated that the proposed mobile home would be a caravan in law, it does not automatically follow that it would comprise operational development. Section 55 of the Act sets out the meaning of "development" and "new development" and provides that "development" means 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 of any buildings or other land.
22. Section 55(1A) sets out that building operations includes, amongst other things, other operations normally undertaken by a person carrying on business as a builder. Section 336 of the Act states a "building" 'includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.' The main characteristics of a building, as a matter of fact and degree, are (a) physical attachment, (b) permanence and (c) of a size to be constructed on site, as opposed to being brought onto the site. No one test is conclusive.
23. As set out above, the proposed mobile home would be constructed on-site in multiple pieces. I have limited detail regarding the level of construction that is required. Nevertheless, it seems likely to me that constructing a structure of this size and complexity on site is likely to require some skill and is therefore likely to be carried out by a builder or someone with a similar skillset. The mobile home would measure 13.55m x 6.55m x 3m (internal height) and would be of sufficient size, in my judgment, to comprise a building.
24. It seems that the proposed mobile home would not be affixed to the ground, and any connections to services would be easily reversible. Indeed, I note in appeal APP/L5810/X/15/3140569, that the Inspector concluded that disconnection from services could be achieved within minutes if the mobile home needs to be removed. However, there is no suggestion that, once the structure has been completed it would be moved. As set out above, it seems that a framework is necessary to sit around the proposed mobile home, so that it can be lifted from its position as a single unit. Moving the proposed mobile home is therefore unlikely to be straightforward and so I consider it is unlikely that it would be moved following its construction.
25. I consider the mobile home is likely to remain in situ for a sufficient length of time to be of significance in the planning context. Given its size, that it would be constructed on site and the fact that there would be some physical attachment through the connection of services, I find, as a matter of fact and degree, that the proposed mobile home would be a building for the purposes of the Act.

26. The appellant does not suggest that the proposal should be considered under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO), rather they explicitly state that the application should not be assessed against the criteria for outbuildings. The appellant is not proposing that the structure would be used for purposes which are incidental to the enjoyment of the dwellinghouse but is proposing primary living accommodation. Planning permission would not, therefore, be granted by the GPDO.

Whether there would be a material change of use

27. The Council has considered whether the proposal would constitute a material change of use, as defined by section 55 of the Act and, in particular, has considered whether the land would comprise curtilage. However, even if the land is not within the curtilage of the dwellinghouse, if it is within the same planning unit and is used as part and parcel of the use of the dwellinghouse, such that the dwellinghouse and mobile home remain part of the same planning unit, then, as established in *Uttlesford DC v SSE & White* [1992] JPL 171, there would be no material change of use.
28. The appellant's evidence is that the proposed mobile home would be sited on land which has been used as garden space for several years. This is not disputed by the Council and, given the limited space adjoining the dwelling, it seems likely that occupants of the dwelling would have used it in association with the use of the dwellinghouse.
29. It is stated that there would be no separate address, post box, utility metres, services (such as internet, phone line and television), parking, garden area of curtilage or access. The appellant suggests I consider: the relationship between the respective occupants; the relative size of the house, its garden, and the caravan; the relative scale of accommodation in the caravan and the house; the degree to which the caravan would be functionally connected to and subordinate to the use of the dwellinghouse.
30. The proposed mobile home would be sited within a plot of land which is physically separated from the main dwellinghouse by an access track leading to the nearby church. The land slopes down considerably and so the mobile home would appear physically separate from the dwellinghouse. The mobile home would have two bedrooms, a shower room, kitchen and living area and would therefore comprise accommodation which could meet the day-to-day needs of its occupants, without reliance on the main dwelling.
31. The appellant has provided a statutory declaration, within which they state '*The mobile home would be used by members of the household as an integral part of the use of the property as a single dwelling house and/or for purposes incidental/ancillary to the enjoyment of the dwelling house.*' However, the use of a primary accommodation will not be an incidental use, it will either be used for residential purposes that are integral to the residential use of the house, or there will have been a material change of use through subdivision of the planning unit.
32. The appellant states that the mobile home would be used by their parents and would allow them and the wider family to provide essential care and support, which would be required due to the advancing age and declining health of their parents. However, while the appellant has provided some information as to the health issues

their parents have suffered from, it is not clear from the evidence what support their parents are likely to require, or the level of dependence their parents would have on the main dwellinghouse and its occupants, such that it could be regarded as being occupied by a functionally single household.

33. The appellant has drawn my attention to appeal reference APP/R3650/X/16/3161457, where the Inspector commented that, if the appellant were to permit the use of the proposed caravan for any uses that were not ancillary to the residential use of the dwellinghouse it is likely that planning permission would be required, and the Council would retain control over any non-ancillary uses of the proposed caravan. Other examples have also been drawn to my attention, however, each case turned on its facts³.
34. While it is for the appellant to propose the use or operation they wish to ascertain the lawfulness of, the burden is firmly on the appellant to show that the proposed use would be lawful to the civil standard, which is the balance of probabilities. I am not persuaded, on the evidence before me, that the proposed use of the mobile home would not result in a material change of use. Significantly, as set out above, I have found that the mobile home would not be a caravan in law and so, even if I were to find that the dwellinghouse and mobile home would remain part of the same planning unit, the appeal cannot succeed.

Conclusion

35. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use of the land for siting a mobile home for ancillary use to the main 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 (as amended).

M Savage

INSPECTOR

³ APP/B0230/X/22/3295944, APP/L5810/X/15/3140569, APP/T3725/X/21/3266375, APP/J2210/X/22/3298471, APP/R3650/X/16/3161457