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Summary of key tests in Caravan Sites Act

Appeal Decisions

Supporting Information

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MOBILITY TEST – Appeal Decisions

a)Appeal Ref - APP/N1025/C/01/1074589 (para. 7)

"To fall within this definition the structure must be capable of being moved by road from one place to another in its assembled state. It may be moved by trailer, but it is not excluded from the definition merely because it would be unlawful to move it in such a manner on a highway. The fact that the private drive to [the appeal property] is too narrow to allow the passage of the park unit in its assembled state along it is not the point. It seems to me that it is the structure that must possess the necessary qualities, not the means of access."

b) Appeal Ref - APP/L5810/X/15/3140569 (para 16-17)

"'The mobility test does not require a mobile home to be mobile in the sense of being moved on any wheels and axles it may have. It is sufficient that the unit can be picked up intact (including its floor and roof) and be put on a lorry by crane or hoist. In the case of twin-unit mobile homes the whole unit must be physically capable of being transportable by road, the illegality of any such transportation on the public highway being irrelevant. As a matter of fact and degree, I consider that the proposed accommodation once assembled would be capable of being moved intact within the terms of the statutory definition.

In the case of twin-unit mobile units the whole unit must be physically capable of being transportable by road, the illegality of any such transportation on the public highway being irrelevant. "

I note that the proposed unit would rest on concrete "pad stones" placed on the ground. As such, the unit's degree of physical attachment to the ground and the effect on mobility would be minimal or non-existent. Similarly, any attachment to services is not the same as physical attachment to the land and disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved. The mobile home would not acquire the degree of permanence and attachment required of buildings. The mobility test would be met.'

c) Appeal Ref - APP/J1915/X/11/2159970

i. *The test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle*; (pg.17, clause 5, Appx B)

ii. *Lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most 'static' caravans on any lawful caravan site*; (pg.17, clause 5)

iii. *The fact that the practicalities of mobility (e.g: a narrow driveway or awkward craning points) is immaterial. The test is whether the mobile unit possess the necessary structural qualities to achieve theoretical mobility*.

d) Appeal - J G Roberts 2002 - an Inspector appointed by the SoS.
Brentall v Erewash Borough Council

"It is not necessary for it (a caravan) to be towed, only that it is capable of being moved by road".

e) Appeal - APP/B5480/C/17/3174314, Romford, RM5 2EJ

"As to the mobility test, the mobile unit for which the certificate was granted should once fully assembled be physically capable of being moved as a whole by road, by being towed or transported. A lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network…" (Para.5, clause 13)

"The structure rests on plinths and is not fixed to the ground. The statement supports the view that temporary lifting beams could be installed under the structure to enable it to be lifted safely for transportation." (Para.5, clause 15)

f) App Ref – APP/J2210/X/22/3298471 (10-01-2023)

'Mobility does not require a caravan to be mobile in the sense of being moved on its own wheels and axles. A caravan may be mobile if it can be picked up intact and put on a lorry.

g) App Ref – APP/B0230/X/22/3295944

'It is reasonably safe to assume the unit (caravan) might remain in situ for some years. …I do not regard this as being a significant factor in relation to the test of permanence. …..In no

sense could a residential or holiday park caravan be described as a building simply because it has not been moved periodically'

The High Court handed down judgment in the case of ***Brightlingsea Haven Limited & another v Morris and others 2008*** **(QB)** concerning rights between park owners and the three defendants in respect of their lodges. It states that:

> *"It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road"*

Para 84-85 states:

'Section 13 of the 1968 Act requires that the structure '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)': but it need not be capable of being lawfully so moved. The last provision appears to be because of width problems: I refer to ***Howard v Charlton [2002]****,* ***EWCA Civ 1086****, para. 6. The phrase 'from one place to another' also occurs in section 29(1) of the 1960 Act, but section 29(1) does not refer to 'by road'. Section 13 provides alternatives, movement by towing, and movement by loading onto a carrier. The two opposing constructions are these: whether the structure must be capable of being moved by road from one place to another, with no specific places or roads in mind, or whether the structure must be capable of being moved from where it is and moved by road to another place.*

'I have concluded that the first construction is the correct one. My main reason is that it is consistent with the purpose of the Act that, if a structure is once a caravan, it should remain a caravan if it is itself unaltered, regardless of where it is. If a lodge meeting the requirements of the section and so a caravan is assembled on a site, it should not cease to be a caravan if it becomes boxed in by other lodges and cannot be got out because lifting apparatus cannot sufficiently approach. Likewise, with the growth of trees. Likewise, with the change of season making ground alternatively passable or impassable to equipment or the lodge. It is also very possible that the kind of caravan that is towed behind a car might be placed in a position from which for one reason or another it could not be moved, either temporarily, or permanently. It is surely unthinkable that it would then cease to be a caravan as defined in section 29 because 'it was not capable of being moved from one place to another'. I therefore decline to follow the view tentatively express by HHJ Rich in the Byrne case. In my judgment, the test which the structure has to pass is as follows. It must either be physically capable of being towed on a road, or of being carried on a road, not momentarily but enough to say that it is taken from one place to another. It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road.'

CONSTRUCTION TEST – Appeal Decisions

a) Appeal - APP/B5480/C/17/3174314 – the inspector concluded:

*The Council's evidence is not in conflict with the appellant's explanation of what took place. However, the Council appear **not** to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in para. 8 above, was not satisfied. In particular, the Council's evidence does not cast doubt on the appellant's explanation of how the two sections were assembled on the land and then joined together in the final act of assembly.'*

In summary:

a. Two halves constructed on site - "*There is no requirement that the process of creating the two separate sections must take place away from the land".*

b. Two halves being completed adjacent to one another, and then finally bolted together. *"The installation method shows that the two sections, having been completed alongside each other, were then connected securely by using a series of bolts along the lines of the walls and floor."*

b) App Ref- APP/U1240/C/18/3204771 - the Inspector said:

'I was shown photographs of the whole unit under construction, apparently as one unit, and also as two. It is also clear there was a final act of joining together. It was explained that as the two halves are built up from the various elements of the kit, they are placed side by side in order to ensure the various components would eventually fit together. The two halves were moved apart and back together as required during construction. This seemed to me be a reasonable explanation of the construction process.'

MATERIAL CHANGE OF USE– Appeal Decisions

a. Uttlesford DC v SSE & White [1992] JPL 171

The Court considered that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree and stated:

> *'if an outbuilding with its living accommodation was part of the same planning unit as the dwellinghouse, and provided that the planning unit remains in single family occupation it does not therefore involve any material change of use of the land'*

The Inspector acknowledged that whilst the 'annexe' contained all the facilities for day-to-day domestic existence and was capable of being used as a separate dwelling house, he stated, that this did not mean that it had been so used. As was observed:

> *'There will be sufficient linkage between any occupants, and the occupants of the main dwelling, for the two to remain a single planning unit. -*

As was also observed in Uttlesford:

> *'… the elderly relative to be accommodated would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of the family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.'*

Determinative factors of significance for this decision were:

i. the lack of separate utility meters
ii. the lack of postal address
iii. the lack of a telephone line
iv. the lack of a separate curtilage or access arrangements

b. Appeal - APP/L5810/X/15/3140569

'The appeal site would remain a single planning unit and that unit would remain in single family occupation. Both the first two named elderly appellants have health problems and are becoming increasingly dependent upon the two younger appellants. The accommodation in the appeal unit would be used interchangeably with the accommodation in the main dwelling for socialising and practical support with day-to-day living needs. A completely separate self-contained dwelling unit is not being provided.'

c. Appeal - APP/P2365/X/09/2109940 - Homefield (12/11/2009)

This appeal concerned a Lawful Development Certificate application to site two caravans on land within a residential curtilage, for use as ancillary accommodation incidental and subordinate to the residential occupation of the main dwelling house. In allowing the appeal the Inspector concluded that:

"The evidence for the appellants is that the caravans would be used by the two sons to provide their sleeping accommodation, "and for social purposes and entertaining friends". The supporting statement goes on to say that "the sons will, as now, take all meals in the main house, use laundry facilities and generally inter-react with their parents in the normal manner associated with family occupancy." As such, I consider the proposal is to use the caravans solely as living accommodation additional to that which exists at Homefield. The stated intention is that the caravans will not be used as independent units of accommodation but will remain very much part and parcel of the main dwelling. If the caravans were to be used as self- contained living accommodation, then it is likely that would amount to a material change of use of the land. But so long as the caravans are sited within the residential planning unit, and so long as use of the caravans remains ancillary to the main dwelling, I am satisfied their siting does not result in any material change of use of the land."

In parallel to submitting their appeal against the refusal to issue an LDC, the applicants successfully made an application for an award or costs on the grounds that the Council had acted unreasonably. In making a full award the appointed Inspector found that by considering the proposal primarily in the context set by the 2008 [General Permitted Development] Order the Council failed to first address whether or not the siting of 2 caravans amounted to development with the Inspector confirming:

'the proposed siting of 2 static caravans for use as ancillary accommodation to that dwelling is not development. I draw support from the judgment in Restormel Borough Council v SS Environment [1982] JPL 785… the appeal should succeed

d. Appeal - APP/Y0435/X/15/3129568 – Milton Keynes

The Inspector noted that whilst the proposed caravan would have contained all the facilities for independent living there was, nevertheless, a functional link with the main dwellings. He concluded that as such, the siting and use of the caravan (as additional living accommodation) in the manner described in the application would have been a use comprised part and parcel within the primary dwellinghouse use which was already taking place within the planning unit and would have been lawful as a matter of fact and degree and there would not have been a breach of planning control.

e. Gravesham BC v SSE [1984] P&CR 142

McCulloch J in the High Court considered the definition of a dwelling house and held that the facilities within a dwelling house, and by extension a caravan was essentially irrelevant and stated:

'that a distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. Not every case was to be determined by having regard ***only or even primarily*** *to the use to which building was in fact put, nor was the duration or frequency of the user always relevant, and* ***in general little if anything turned on it****.'*

f. App Ref - APP/Z3825/X/16/3151264 – Woodfords (2016)

This decision concerned the siting of a caravan for occupation by elderly parents, within the garden grounds of a dwelling. The Inspector concluded:

"Use of the caravan in the way set out in the supporting statement would not, in my view, result in a separate unit of occupation, in planning terms, and the use of the existing planning unit comprising the house at Woodfords and its grounds would remain in domestic residential use as a single dwellinghouse. The character of the use would not change. Whilst I can appreciate the concerns of the Council, the size of the caravan and the facilities provided, which would be found in most large caravans, do not cast substantial doubt on the applicant's explanation of the use that is proposed. On the balance of probabilities, I consider that that use proposed would be subordinate and ancillary to the use of the property as a single dwelling house. It would not result

in a material change of use. For that reason, I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of the siting of a caravan for ancillary residential use within the residential curtilage of Woodfords was not well-founded and that the appeal should succeed.

g. App Ref - APP/A1530/X/17/3177321 - Heathfield House (2017)

"It is clear that there would be a close family and functional link between the uses with the land also remaining in single ownership and control. Use of the caravan in the manner described would not involve physical or functional separation of the land from the remainder of the property. The character of the use would be unchanged. Thus, the use described would form part and parcel of the residential use within the same planning unit. Only if operational development which is not permitted development is carried out or if a new residential planning unit is created, will there be development. From the application, neither scenario is proposed. Accordingly, the proposal would not have required separate planning permission."

i. App Ref – APP/K3605/X/12/2181651 - Sandy Holt Appeal (08/04/2013)

This decision concerned the siting of staff accommodation with the curtilage of a dwelling house. The 'mobile home' in question was to provide staff accommodation for persons employed on the site as a chauffeur/ handyman and or housekeeper and
would continue with their duties in the house when the family were away and would provide an on-site presence for security purposes.

The appointed Inspector noted that the whole of the appeal site would remain under one ownership and control, and that there would be no functional separation of the main dwelling house use from the mobile home use. The siting of the mobile home would not, therefore, lead to the creation of a new planning unit. Given the clear functional link between the mobile home and the dwelling, and the ancillary and subordinate nature of the accommodation to be provided, she therefore concluded
that the siting of a mobile home for the purposes described would not amount to a material change of use.

j. App Ref- APP/C9499/X/08/2084644)

The Yorkshire Dales National Park Authority refused to issue a Lawful Development Certificate for the use of a walled garden, within the grounds of a hotel, for the siting of four guest

caravans to be used as overnight sleeping accommodation for guests of the hotel. In allowing the appeal the appointed Inspector found that:

> *"The use of the walled garden in the manner proposed would not of itself, create a new planning unit; there would be no material change of use of the land. For the reasons given above, and having regard to all other matters raised, I conclude that the Authority's refusal to grant a Certificate of Lawful Use or Development was not well founded and that the appeal should succeed."*

k. App Ref - APP/Q9495/X/08/20904114.39

The Lake District National Park Authority refused to issue a Lawful Development Certificate for the siting of an additional staff caravan within the grounds of a hotel. The he appointed inspector concluded that:

> *'The provision within the planning unit of a hotel in a rural location of facilities for accommodating staff employed in the running of the hotel is capable of being ancillary to the main use. Their provision in the form of a caravan at the site, as a use of land rather than operational development, could fall within the principle of one ancillary to the hotel use where not providing independent living units.'*

l. Restormel BC v SoS for the Environment and Rabey [1992]

This case concerned the siting of a staff caravan within the grounds of the Norbury Sands Hotel in Newquay. An Enforcement Notice had been served alleging that there had been a material change of use of land, to a use for the purpose of stationing a caravan. The caravan in question was being used as ancillary accommodation for two waitresses. In his judgment Forbes J came quite firmly to the view that:

> *'… you had to look at the planning unit; you had to look at the use to which that planning unit was being put, and if there was a caravan stationed there, then the Inspector was right in saying that if the use to which the caravan was being put was in fact a use which did not amount to a material change of use, then there was no breach of planning control. It was inappropriate when a caravan was stationed on land for a particular purpose, to look at the stationing of the caravan separately and say that that was something which was development requiring planning permission because it made a material change of use.'*