THREE RIVERS DISTRICT COUNCIL

Three Rivers House
Northway
Rickmansworth
Herts WD3 1RL

PLANNING COMMITTEE

NOTICE AND AGENDA

Thursday, 31 July 2025 at 7.30 pm.

SUPPLEMENTARY PAPER

The following paper has been added to the agenda of the above meeting.

Joanne Wagstaffe, Chief Executive

5. **25/0694/RSP – Retrospective: construction of outbuilding in rear garden for ancillary residential use at 20 Marlin Square, Abbots Langley WD5 0EG** (Pages 3 - 8)

Appendix 1 – Appeal Decision

General Enquiries: Please contact the Committee Team at
committeeteam@threerivers.gov.uk

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Planning Inspectorate

Appeal Decision

Site visit made on 23 December 2024

by Grahame Kean BA (Hons) Solicitor MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2025

Appeal Ref: APP/P1940/X/24/3336810
20 Marlin Square, Abbots Langley, Hertfordshire, WD5 0EG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Ms L Quinn against the decision of Three Rivers District Council.
- The application ref 23/1496/CLED, dated 31 August 2023, was refused by notice dated 26 October 2023.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is: siting of a Caravan/Mobile Home for ancillary residential use.

Decision

1. The appeal is dismissed.

Costs application

2. An application for an award of costs against the Council was made by Ms L Quin. This is the subject of a separate decision.

Main Issue

3. In an appeal under s195 of the 1990 Act the planning merits of the matter applied for do not fall to be considered. The decision is based strictly on the facts and on relevant planning law.

4. The main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded, irrespective of the reasons for that decision. The development the subject of the application must be lawful development at the date of the application, the planning merits of the development are not relevant.

5. The onus of proof is firmly on the appellant to make their case on the balance of probabilities. The appellant's own evidence does not need to be corroborated by independent evidence. If the Council has no evidence of its own to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.

6. In this appeal it is claimed that the appeal site comprises a single dwelling house and garden in single family use, the siting of a caravan/mobile home for incidental or ancillary use in the curtilage of the dwellinghouse does not comprise a material change of use of the land or buildings or operational development, therefore no development requiring planning permission is involved.

Reasons

7. I will use the term “structure” in a neutral sense for the purposes of assessing it, rather than what is variously claimed to be, namely a caravan/mobile home/building.

8. The appellant’s case is that the structure is mobile, capable of being moved in its assembled state, has no deep foundation as it sits under its own weight and any connection to services can be easily and quickly disconnected, therefore no operational development is involved that would require planning permission.

9. In support of its case the appellant states that the structure comprises pre-formed pieces with the final act of assembly being the joining of its two component halves by bolts as illustrated in the photographs submitted, which show parts ready to be joined together; a ratchet pulley to pull the halves together and line of bolts in a vertical plane awaiting tightening; and bolts connecting two halves with access panel for tightening.

10. The Council had requested details of how the structure came to be within the site, noting that the appellant’s examples of how “similar” types of structure were transported and assembled on site, yet there was no site-specific detail given. In reply, other images were supplied in an email of 13.10.2023. The images were “*not of this actual caravan because none were taken at the time, but they show the means by which all of the manufacturers two-part caravans are assembled*.”

11. It was also said that the structure was prefabricated in the factory and assembled on site. The ground was level and required no alteration. The pre-manufactured parts were manually lifted into the rear garden of this mid-terraced house via the pedestrian access (which was through an alleyway further down the terraced row of properties) where it was then assembled. The method described was that each half of the caravan would be manoeuvred into position, either by crane or, when a crane was not available wheels could be fixed to the base, enabling a final push together of the halves before they were bolted together internally.

12. The appellant’s case relies on general illustrations as to how such structures would be assembled but the images of structures are not those located on the appeal site. The interested person[1] who observed some of the structure’s construction noted that foundation holes were dug in the garden and filled with concrete. A timber sub-frame was then built and fixed to the foundations. The rest of the structure was built and secured onto the solid timber frame. Another neighbour noted that the structure was built over several weeks with all materials carried by hand down the narrow alleyway, “*through their garden*” (presumably there was a private right of way across several rear gardens as is often the case with a terraced row) and through the single width side gate.

13. The detail of these observations is compelling, and I have no good reason to doubt their accuracy. The submitted images of the structure on site show a different structure from that illustrated in the appeal statement which is being hoisted onto a lorry. It would not be possible for the structure in situ to be hoisted and moved in this way. A lorry could not park anywhere near to the structure and it is doubtful in my view whether a crane could have manoeuvred it into position. The structure has been assembled into a very tightly confined space in the rear garden where it

[1] Residing at No 24 Marlin Square.

spans almost all the width of the garden and is erected right up to the rear fence boundary. Permanent steps up to the structure and timber planters have been constructed, compounding the difficulty in hoisting it out of position. There is no room around the structure for it to be pulled apart as the appellant suggests.

Whether a caravan

14. So far as relevant, "caravan" is defined in s29(1) Caravan Sites and Control of Development Act 1960 (CSCDA60) as meaning '*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…"*

15. It is not disputed that the structure is designed or adapted for habitation. Its dimensions are: width of 5.14m, depth of 5.38m and height of 2.50m as shown on the elevation drawings for the application, which accords with what I saw on site.

16. Whether or not the structure is within the size thresholds for a twin-unit, it still has to meet the definition of a caravan in s29(1).[2] Whether the structure was fully constructed on site or erected from two parts, or several parts is not relevant, subject to the issue of its manoeuvrability in its assembled state. The appellant's assertion that for larger twin-unit caravans, it is necessary only that the joining of two sections should be the final act of assembly, is not to the point. It is established that the structure which has to be capable of being moved "*by being towed or transported on a single motor vehicle or trailer*", must refer to a whole single structure and not to component parts of it.[3] Allowance would be made for disassembling the non-habitable parts but the habitable structure must be capable of being moved from one place to another.

17. In the circumstances and the location in which the structure has been constructed manoeuvrability cannot be demonstrated. It is said to be "relatively light in weight", wheels can be attached, or a cradle installed. Were it positioned in a less confined place I would think that could be possible although it is clearly a substantial structure that would need considerable work to dismantle the way it has been fixed to the ground, including the peripheral steps. It has not been demonstrated that in its position a crane could even be placed into position within the relatively small space that remains of the rear garden of this mid terraced property, having no direct through access to the rear other than by the rear elevation of the dwelling.

18. In relation this matter it is said on behalf of the appellant that:

"Access to the rear garden of 20 Marlin Square is challenging, but there is nothing in the Caravans Acts that says they cease to be caravans because their movement is not easy or convenient, the structures must simply be capable of being moved even when their size prevents their movement on the highway."

19. This misrepresents the relevant criteria. Put simply, movement on the highway pertains to the exception made for otherwise illegal transport on the highway of a structure that is a twin unit caravan of a certain size. It is not relevant here. There is no legal size limit for a caravan statutorily defined in s29(1) of the 1960 Act.

[2] The question whether a structure is a 'caravan' for the purpose of planning control is to be determined on the basis of the statutory definition in s29(1) in conjunction with, where applicable, s13 of the 1968 Act.
[3] Russell LJ in *Carter and another v Secretary of State for the Environment and another [1994] 2 EGLR 194*.

20. Furthermore, the image provided that shows a unit being hoisted on a crane, is about as far removed from the circumstances of this appeal as it is possible to get. The size of the crane, the height of the lorry and the ample space provided in commercial/industrial yard to illustrate the principle, could not be replicated on the appeal site.

21. So, whilst the structure may be within the lifting capacity of vehicle-mounted cranes such an exercise would simply not be feasible to undertake on the appeal site. It is pointed out that caravans are sold, resold, and moved from place to place when they are no longer needed. So they are, but the reality is that the structure would have to be disassembled into several parts before it could be moved from one place to another in any meaningful sense.

22. Therefore, I find as a matter of fact and degree that it is likely that the structure is not a caravan within the statutory definition.

Whether a building operation

23. Operational development includes (s55(1) of the 1990 Act) …"*the carrying out of building, engineering…or other operations in, on, over or under land."* The issue here is whether the physical character of the land has been changed by operations in or on it, whether the physical character of what is under the land has been changed, and/or whether the physical character of the air above the land has been changed by operations which can be described as operations over the land.

24. Building operations are defined in s55(1A) as including (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. The common theme is building(s), therefore the definition of this term, and whether it applies to the structure, is at issue here.

25. The definition of a "building" should be considered, as a matter of fact and degree, in light of factors such as size, permanence, physical attachment (see eg *Barvis v Secretary of State for the Environment (1971) 22 P. & C.R. 710* and *R. v Swansea City Council Ex p. Elitestone Ltd (1993) 66 P. & C.R. 422*, cited by the Council).

26. With regard to its size, it is clearly a considerably large and tall structure that dominates the rear garden of the appeal site. The cases establish that a building would normally be something that was constructed on site as being opposed to be brought to it ready made. Clearly what is in situ has had to be constructed or assembled on site. The materials used, as seen on inspection are typical building materials. Whether a person, carrying on a business as a builder, would be used in any erection or dismantling process is not determinative.

27. The structure is said not to be a permanent addition to the land and when the needs of the family change the siting of the structure would be "reviewed", but there is no indication of any particular temporary period so it is an open-ended arrangement. In situ it appears as a physical and permanent change on the ground.

28. It also appears that to accommodate the structure, the garden itself has been altered, although I accept that some of the works could be regarded as separate landscaping. Some lawn has been removed, slabs laid and steps erected up to the

entrance doors of the structure. These consist of several courses, do not have a temporary character and add to the permanent character of the structure itself.

29. More particularly with regard to physical attachment to the ground, the use of a concrete base and timber sub-frame onto which the structure is secured, as observed by the neighbours, was not disputed. It is connected to the usual domestic services and utilities - the fittings of which are integral to the design. It has been established that a structure may by its own weight be deemed to be fixed to the ground. Viewing it in situ, it is clearly of substantial scale and weight, despite no precise details of the latter being provided.

30. The “Pad Foundation Vertical Section” illustrated by the appellant, indeed suggests that the structure is screwed to concrete pads set within excavated holes in the ground which are then compacted with hardcore, emphasising the permanence as well as the physical attachment of the structure. Given that the structure itself is screwed into the pads it may be a matter of semantics as to whether it is thereby “screwed into the ground” (which the appellant denies) but clearly it has an attachment to the ground, and in my view the combination of the foundation method used, taken with the structure to which it is affixed, has altered the physical character of the land in a permanent way.

31. Moreover, it is unclear how in this case, the structure would be unscrewed from the ground. It may not have traditional foundations but the whole unit when assembled amounts to a significant degree of attachment to the ground.

32. I have considered the appeal decisions cited by both main parties, but I must determine this appeal on its own merits and according to well-established tests. For example, the use of concrete “pad stones” may have contributed to a particular finding elsewhere as to the degree of physical attachment to the ground and the effect on mobility, but in combination with other factors specific to the appeal, full details of which I have not been provided with. Similarly, attachment to services may not be regarded as the same as physical attachment to the land and I would agree in principle but that said, whether a structure acquires the degree of permanence and attachment required of buildings is a planning judgement made in light of all circumstances pertaining to the instant case..

33. Taking into account all the above considerations, as a matter of fact and degree in my judgement the works have resulted in a building and/or constituted building operations as set out in section 55(1) and (1A) of the 1990 Act which have changed the physical character of the land. It would therefore be development requiring planning permission where none has been granted. The LDC appeal must fail.

Other matters

34. I have considerable sympathy with the appellant’s position in that they are seeking to provide care for individuals currently residing in the building. I recognise that it is argued on their behalf that it is used for purposes ancillary or incidental to the main dwelling. However, as I have found that the structure amounts to operational development, its use as described cannot affect the position whereby its erection requires planning permission. As no permission was obtained by the time the application was made, it is not lawful development.

35. The appellant's statement contains several submissions relating to the planning merits of the application, made by a professionally qualified planning agent but as noted the planning merits of the application cannot be relevant to my determination. In the "statement of evidence" accompanying the application to the Council correctly emphasised that this is not an application for planning permission and development plan considerations do not fall to be considered. However, the submissions clearly go beyond those relevant to make as to whether the putative caravan would be functionally connected to and subordinate to the use of the main dwelling, such as those related to claimed increased use of the pedestrian access, cooking odours, overlooking and so forth.

Conclusion

36. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development was 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).

Grahame Kean

INSPECTOR