



Appeal Decision

Site visit made on 11 January 2011

by Roger Pritchard MA PhD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 February 2011

Appeal Ref: APP/R3325/X/10/2138801

Court Farm House, Clapton, Crewkerne, TA18 8PU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr John Williams against the decision of South Somerset District Council.
 - The application Ref 10/01444/COL, validated on 26 April 2010, was refused by notice dated 30 July 2010.
 - 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 the use of land for the siting of a mobile home for use ancillary to main dwelling.
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Decision

1. I dismiss the appeal.

Procedural Matters

2. The copy of the application available to me was not dated. However, I have used the date on which the Council validated the application, which is also the date quoted in the appeal application.
3. Some initial confusion seems to have arisen between the applicant and the Council over where the mobile home was to be positioned. A revised plan, dated 17 November 2010, indicated both the actual location of the mobile home and the location which the appellant suggests the Council originally considered was proposed. My site visit confirmed that the location of the mobile home, which is in position, is as indicated on the drawing to which I refer above and as also indicated on the coloured map attached to the appeal. Moreover, the Council confirmed to me that this was the basis on which it had taken its decision to refuse a certificate.
4. In refusing to grant a certificate, the Council cited two reasons. The first was that the mobile home was not within the residential curtilage of Court Farm House. The second was that the mobile home would not constitute permitted development under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended ('the GPDO') as it was not for a purpose incidental to the enjoyment of the dwellinghouse.

5. However, whilst mobile homes may be 'structures' as defined in the Caravan Sites and Control of Development Act 1960 (and subsequent amending legislation), they do not necessarily constitute 'buildings' as defined in the Town and Country Planning Act 1990. The appellant emphasises that the mobile home at Court Farm House falls within the definition of a 'caravan' as set by the 1960 Act and its successors. Although it has had any wheels removed, the mobile home is, in my view, transportable and of a form and size that one regularly sees being moved on the public highway.
6. I conclude that, as a matter of fact and degree, the mobile home at Court Farm House is not a building within the definition set by the 1990 Act. It does not therefore constitute operational development and Class E of the GPDO cannot apply. The issue is whether the stationing of the mobile home represents a change to residential use that requires planning permission or whether it falls within the exception to the definition of development set out in Section 55(2)(d) of the 1990 Act. The tests for this exception are similar to those for permitted development under Class E, i.e. that its use is within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.

Main Issue

7. I consider that the main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

Reasons

The curtilage of Court Farm House

8. In respect of the first part of the exception set out in section 55(2)(d), the Oxford English Dictionary defines 'curtilage' as 'A small court, yard, garth or piece of ground attached to a dwellinghouse and forming one enclosure with it, or so regarded by the law; the area attached to and containing a dwellinghouse and its outbuildings.'
9. The characteristics of a curtilage were reviewed in *McAlpine v SSE* [1995] JPL 843, which has been referred to by the Council. They are that it is confined to a small area about a building, that there needs to be 'intimate association' with other land undoubtedly within the curtilage, and that physical enclosure is not necessary. Nevertheless, assessment of curtilage in any particular case is largely a matter of fact and degree.
10. The land on which the mobile home is stationed is to the north east of the farmhouse. It forms a raised area, surfaced by hardcore and 3 to 4 metres above the farmhouse's floor height. Apart from the mobile home, the land is occupied by a large shipping container – said by the appellant to be used as a workshop, a lawnmower store, and a fruit cage. The mobile home is positioned towards the north eastern edge of the raised area and is around 30 metres from the nearest elevation of the farmhouse. Conifer hedges up to 4 metres in height both screen the mobile home from the farmhouse and, on the other side, from the open ground that rises to the north. Vehicular access is provided by a separate spur that takes off from the main access road to the house and runs along the north west boundary of the property.
11. The appellant states that the land has been part of the domestic garden of Court Farm House for over 25 years. However, it does not have the appearance of a garden. The overall impression is of a yard area,

predominantly hard surfaced, that is physically and functionally separate from the farmhouse and the area immediately adjacent to it. The mobile home is not obviously visible from the farmhouse and the land on which it is stationed has an independent vehicular access (which must have been used to bring the mobile home on to the site).

12. As a matter of fact and degree, I consider that the land on which the mobile home is stationed does not meet the characteristics of curtilage as defined in the *McAlpine* case when related to Court Farm House. In particular, it is not intimately associated with the area immediately around the farmhouse that does bear all the characteristics of a domestic garden. It is physically separated from Court Farm House and is different in appearance and character. It does not therefore fall within the curtilage of Court Farm House.

Purposes incidental to the enjoyment of the dwellinghouse

13. My conclusion in paragraph 12 would bring the stationing of the mobile home within the definition of development as set out in section 55(1) of the 1990 Act, irrespective of the purposes to which it will be put.
14. Nevertheless, the appellant asserts that the mobile home is incidental to the purposes of Court Farm House. He has given assurances in respect of how the mobile home would be used and commented that it will lack certain amenities normally expected of a separate residential unit, such as an oven. Nor will it be separately metered.
15. However, although the mobile home was not fully fitted out at the time of my site visit, its scale and form is such that I consider it capable of functioning as a separate residential unit. Whatever the appellant's current intentions, it could easily be so converted in the future. It seems to me to be entirely different in purpose from the buildings and structures that might normally fall under Class E of the GPDO or the more general exception to the definition of development provided by section 55(2)(d) of the 1990 Act that should be applied here.
16. I therefore conclude that the stationing of the mobile home does not represent a purpose incidental to the enjoyment of Court Farm House as such.

Conclusion

17. For the reasons given above I conclude, on the evidence available to me, that the Council's refusal to grant a lawful development certificate in respect of the stationing of a mobile home at Court Farm House was well-founded and that the appeal should not succeed. In coming to this conclusion, and for the avoidance of doubt, I should explain that the planning merits of any future development are not an issue for me to have considered and my decision rests on the facts of the case and relevant planning law.

Roger Pritchard

INSPECTOR