

Catherine Knight

Service Lead – Legal Services (Interim)

Officer Report

Application Reference: 19/01683/LDC

Property: The Greenhouse Gravel Hill Shirrell Heath Hampshire

The reasons for REFUSING the application for a Certificate of Lawful Existing Use or Development (CLEUD) under the above application reference are as follows:

1. Section 191(4) of the Town and Country Planning Act 1990 (as amended) provides as follows:

- (4) *If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*

The Council, as local planning authority, was not provided with information which satisfactorily demonstrated the lawfulness of the use or operations described in the application.

The mobile home has been *in situ* since 1 January 2011. Patio doors were replaced in “early 2013” according to the applicant. This work apparently necessitated some modifications to the chassis of the mobile home to enable the doors to fit into the frame. The works were carried out by the applicant him/herself without the assistance of professional contractors. The photographs provided in support of the application offer little support to the application as they are undated and out of context.

By the applicant’s own admission, the works that he/she did to the entrance of the mobile home undermined the structural integrity of the mobile home and separate specialist removal companies confirmed that the structure was unsound to allow for removal of the mobile home without it breaking apart.

In *Measor v Secretary of State for the Environment, Transport and the Regions* [1998] 4 P.L.R. 93; [1999] J.P.L. 182, it was held that the approach to the definition of a “building” should be considered, as a matter of fact and degree, in the light of factors such as size, permanence, physical attachment and composition by

components. Generally a mobile caravan would not satisfy that definition, taking into account factors such as permanence and attachment.

The works to the entrance of the mobile home alone probably did not alter the nature of the structure from being one of a mobile home to that of a building as understood in law. The fact that the mobile home could not be moved in the opinion of specialist removers does not relate to the degree of permanence of the structure, but instead reinforces the probability that the “DIY” works that the applicant undertook when installing the larger patio doors in fact jeopardised the structural integrity of the mobile home. The Council is not satisfied on a balance of probabilities that the works that the applicant carried out were of the degree required to transform the mobile home into a building.

The applicant then apparently undertook some home improvement works in 2015 to improve the thermoregulation of the mobile home. None of the works described by the applicant in the Planning Statement constitute material operations and are works to the internal features of the mobile home.

It would appear that in May 2018 some material works were carried out. The lounge floor was “dropped” to match the lowered entrance way which was done in 2013 and addressed in this report above. An extension was also allegedly added on to the mobile home in early 2018. These works are of a greater material degree and would ordinarily tilt the balance of probability in favour of the mobile home having become a building. These material operations, however, are relatively recent and have not attained immunity from enforcement action. The Council has served Planning Contravention Notices (PCN) alleging breach of planning control and investigations are ongoing. The 2018 works are not immune from enforcement action and the mobile home remains as such.

Based on the evidence provided in support of the application for a CLEUD, the Council as local planning authority, is not reasonably satisfied that, on balance of probability, the 2013 works to the mobile home were in fact of a sufficient degree to render the structure a building as understood in law. Therefore, the application for a certificate of lawfulness of an existing dwelling house based on the four year immunity rule does not apply and the mobile home remains subject to the ten year immunity rule for change of use. The application is refused.

James Liebetrau

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Winchester City Council