

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2034/OE1
2.	<b>Proposed Development:</b>	LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING RESIDENTIAL USE OF A CARAVAN
3.	<b>Location:</b>	TUTEHILL FARM, PICA
4.	<b>Parish:</b>	Arlecdon and Frizington
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp;Policy</b>	See report
7.	<b>Report:</b>  <b>Site and Location</b>  <p>The application site is located within the open countryside as defined by the Copeland Local Plan 2013-2028 (Adopted December 2013) and forms that of a small plant nursery. The site forms that of a small, self-contained group of buildings that is accessed via a track from the main road to the west.</p> <b>Proposal</b>  <p>This application seeks a Lawful Development Certificate (LDC) for the continued siting of a residential caravan on the site.</p> <b>Consultation Responses</b>  <u>Arlecdon &amp; Frizington Parish Council</u>  <p>No response received</p> <p>National Planning Practice Guidance clarifies that there is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the</p>	

operation, use or activity in question, are irrelevant when determining the application.

### **Planning Policy**

Town and Country Planning Act 1990 – Section 191 as amended by Section 10 of the Planning and Compensation Act 1991

### **Clarification of the Development that has taken place**

The critical consideration within the application is if the siting of a caravan and its continuous residential use constitutes a material change of use of land (subject to the 10 year rule). Or alternatively: If the caravan in question, due to its size, attachment to an adjacent caravan and its movability give it a sense of permanency that constitutes a building operation (subject to the 4 year rule).

As a starting point on the above, a review of Development Control Practice confirms the following:

#### The Statutory definition of a caravan

A statutory definition of a caravan is found in the Caravan Sites and Control of Development Act 1960, as supplemented by sec.13 of the Caravan Sites Act 1968. The 1960 Act at sec. 29 states that a “caravan “means 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 other motor vehicle so designed or adapted, but does not include a) any railway rolling stock which is for the time being on rails forming part of a railway system, on b) any tent.

#### Case Law

##### A Building Operation

In Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen and Baldwin’s Iron and Steel Co. Ltd [1949] 1 KB 485, three criteria were identified for a building:

1. size (with a building usually something that is constructed on site, rather than being brought on site already made);
2. permanence; and
3. physical attachment to the ground.

##### Caravan or Building Operation

An enforcement notice requiring the removal of a ‘caravan’ from a Somerset farm was quashed, an inspector finding that the structure was not a caravan. There was no dispute that the unit met the size definition of a twin-unit caravan in s13(2) of the Caravan Sites Act 1968 and that it had been brought to the farm in two pieces and assembled on site. The inspector identified the main issue as

being whether or not it was now movable and thus a caravan. He found the question to be whether the structure was readily moveable. He recognised that the courts had not glossed the Act to include the word 'readily' but reasoned that it was common sense that at some point the effort required to transport a structure successfully must be so great as to suggest that it no longer met the definition of a caravan. He found the key issue was that the structure should be moveable as a single unit. There was no suggestion, he noted, that the unit could be transported without being split in two. He recorded that s13(1) of the 1968 Act defined a twin-unit caravan as one that was 'when assembled, physically capable of being moved by road from one place to another'. He very much doubted whether even in halves the structure was mobile and could not see how it could be moved once assembled, at least not without a huge amount of work to the framework to strengthen it. He concluded that the structure was not a caravan and so the breach of control described in the notice had not occurred.

#### Caravans Adjoined

*Jones v Green on behalf of the Friends of Fordwich and District 16/12/2005* is a gypsy case in which the definition of a caravan was discussed. It exemplifies the difficulties in determining the status of structures as caravans. In this case, two caravans had been adjoined by a wooden structure and another had a wooden addition. The judgement was that each structure should be considered as a whole and, if so considered, they would be incapable of being moved as a single unit. This was especially so in the case of the former. Given that they could only be moved if dismantled, they did not fall within the statutory definition of a caravan.

#### Sense of Permanence

An appeal related to a cricket practice cage that consisted of six posts of 3.6 metres in height covered with netting. The Inspector determined that from the evidence the posts were intended to be permanent and, even if there was the potential to remove the netting, as a whole the structure was a permanent addition. Moreover, the posts were buried in the ground with concrete which ensured that at least the substantive part of the cage was physically attached to the ground. The Inspector also determined that the nature of the cricket facility implied that it was constructed on site, concluding that it was therefore a "building". (Appeal reference: APP/M0655/C/18/3206121).

#### **Legal and Case Law Consideration**

In terms of the residential caravan in question within this application, this is a twin unit caravan that was delivered to the site in two section and was subsequently assembled on site. Whilst the twin unit status of the caravan falls within the Section 13 of the Caravan Sites Act 1968, the caravan has been extended with a wooden lean-to type structure located along the south-eastern elevation of the caravan. This structure is set upon posts that are concreted into the ground. In addition to this, the main caravan has been attached to an existing static caravan that predates the caravan that is the subject of this application by a large section of wooden decking area that is also set upon posts that have been concreted into the ground.

Looking at case law, this confirms that a key test for confirming if a caravan is a structure, is if the development is readily moveable. The second case confirms that where two caravans are joined together by a wooden structure, the judgement was that each structure should be considered as a whole and, if so considered, they would be incapable of being moved as a single unit. Given that they could only be moved if dismantled, they did not fall within the statutory definition of a caravan.

In relation to the size of the structure (consisting of two caravans, decking and a lean to wooden extension) it is outside the dimensions of a caravan as defined under the Caravan Sites Act 1968. Furthermore elements of the structure were constructed on site. In relation to permanence all the service connections that have been provided to the home and the inability to remove the structure as you would remove a chattel demonstrate the degree of permanence required.

### **Legal Framework**

The Town & Country Planning Act 1990 Section - 171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

### **Assessment**

A lawful development certificate enables applicant's to establish whether a proposed or existing development is lawful for planning purposes. In this instance, the application relates to two caravans that are connected via a wooden lean-to type structure and decking area. A review of case law confirms that where two caravans are adjoined by a permanent wooded structure, this constitutes operation development and therefore a period of 4 years is required beginning on the date on which the operations were substantially complete.

The following evidence has been submitted to support this lawful development certificate:

- Site plan
- Site photos
- Copies of Council Tax Bills issued by Copeland Borough Council issued from the 13.03.2016 to the 13.03.201
- Copies of utility bills for power used at the static caravan date as far back as 2012 until present
- Copies of TV License obtained for the site from 2017 to date
- Additional receipts relating to the purchasing of materials for the decking area and lean-to

	<p>extension dated the September 2016</p> <ul style="list-style-type: none"> <li>- A Copeland Borough Council Completion Certificate dated 11<sup>th</sup> January 2011 for the installation of a septic tank</li> </ul> <p>On this basis it is appropriate for a lawful development certificate to be granted in this case.</p>	
8.	<p><b>Recommendation:</b> Approval of Certificate of Lawfulness</p>	
<b>Case Officer:</b> A. Adams		<b>Date :</b> 01/06/2021
<b>Authorising Officer:</b> N.J. Hayhurst		<b>Date :</b> 22/12/2021
<b>Dedicated responses to:-</b> N/A		