

Application Ref: NP/17/0389/CLE

Case Officer	Andrew Richards		
Applicant	Mr S Lewis		
Agent	Mr M Howlett, Sureline Design Services Ltd		
Proposal	Certificate of lawfulness for a mobile home		
Site Location	Land at Elm House, Jameston, Tenby, Pembrokeshire, SA70 8QJ		
Grid Ref	SS05579915		
Date Valid	02-Aug-2017	Target Date	26-Sep-2017

This application is reported to the Development Management Committee due to a request from a member of the Authority.

Consultee Response

Manorbier Community Council – No response received at the time of writing the report.

Public Response

A site notice was posted in accordance with requirements of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. No responses received at the time of writing the report.

Policies considered

Please note that these policies can be viewed on the Policies page Pembrokeshire Coast National Park website -

<http://www.pembrokeshirecoast.org.uk/default.asp?PID=549>

Constraints

LDP Mineral Safeguard
Biodiversity Issue
Historic Landscape
Recreation Character Areas
Landscape Character Assessment

Officer's Appraisal:**Background and History**

The application site relates to an area of land which is located along a narrow access track which is known as Haylands Lane to the north west of the village of Jameston. The site consists of a static caravan and its access from the adjacent Haylands Lane. Within the surrounding land there are several agricultural buildings and water features. The owners of the application site and surrounding land are the applicant's parents who live at Elm House within Jameston, which is some 150 meters south of the site and fronts the main road which runs through Jameston.

For a certificate of lawfulness to be granted in respect of a material change of use, an applicant must demonstrate that the use has been continuous and without interruption for a period of at least 10 years unless the change of use is to a building used as a residential dwelling, in which case the use must be continuous and without interruption for a period of at least 4 years. Generally, a caravan is not considered to fall within the definition of a building. The applicant's evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (Annex 8, Welsh Office Circular 24/97).

- NP/10/444 – Certificate of lawfulness for use of caravan as dwelling – Refused as the evidence/information provided is not sufficient to show the lawfulness of the development/use claimed - 15.12.2010

Current Proposal

The application is made under Section 191 of the Town and Country Planning Act 1990 (as amended) for a 'Certificate of Lawfulness' for "the stationing of a static caravan for residential use for over ten years" at the property which is known as Land at Elm House, which is situated in Jameston.

The Act states that a Lawfulness Development Certificate (LDC) may be issued where, in relation to operational development or change of use to a residential dwelling, evidence is provided to prove the works were carried out 4 or more years before, or in the case of any other change of use, the use has been carried on for 10 or more years. For avoidance of doubt, the application does not argue and officers do not consider the caravan to be a building and the relevant time period in this case is 10 years.

The submitted application form states that the use of the structure for the said purpose began more than 10 years before the date of the application.

In assessing the evidence, the general legal framework is that:-

1. The burden of proof is on the applicant.
2. The relevant test is the 'balance of probability'.
3. If the National Park Authority has no evidence of its own to contradict or undermine the applicant's contentions there is a presumption the application should be granted, providing the applicant's evidence is sufficiently precise and unambiguous to justify the grant of the Certificate.

The Planning Acts state that a lawful development certificate can be issued where, in relation to any use of buildings or other land, the use has been carried out continuously and without interruption for a period of 10 or more years.

Evidence submitted

In support of the application and in addition to the application form and site location plan the applicant has submitted the following evidence of the claimed use as part of the submission:

- Statutory declaration by Reverend William Glynne George James
- Background statement and timeline of events from the applicant
- Various photos of caravan and external works
- Copy of previous refusal of certificate of lawful use or development – NP/10/444
- Support letter from neighbour's Mr. & Mrs. A. B. Gill
- Support letter from applicant's parents Mr. & Mrs. J. R. Lewis
- Support letter from Rev. Sharon J Swain (Associate Priest)
- Support letter from Mr. Neil Slack
- Support letter from Mrs. Sharon Davies (Head Teacher at Manorbier Church in Wales School)
- Copy of letter confirming installation of multi fuel log fire and two subsequent maintenance services from DAB Construction
- Copy of quote for installation of single phase electricity to Shed at Elm House, Jameston by Western Power Distribution
- Copies of receipts for electricity payments
- Copies of various promotional information on the use of the land at the site

The LPA also has aerial photography evidence which clearly indicates that the current caravan was moved to the site and the historic caravan removed between 2009 and 2014. The evidence also confirms that the current caravan has been relocated on the site and is not located in the same location that the historic caravan was sited.

Key Issues and Consideration of the Evidence

It is noted that the Applicant/agent uses the words “mobile home” and “caravan” interchangeably. In legal terms, the Local Planning Authority (LPA) would consider this structure a caravan for the purposes of section 29(1) of the Caravan Sites and Control of Development Act 1960.

Circular guidance advises that the applicant's own evidence in support of an application does not need to be corroborated by ‘independent’ evidence in order to be accepted. If the LPA has no evidence of its own or from others to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The key issues to consider in this application relate to firstly whether the caravan subject of this application has been used as an independent residential unit and secondly whether the use had remained continuous for a period of ten years without any interruption. There is a need to consider whether the level of evidence submitted is sufficiently precise to determine the use claimed.

From visiting the site it is clear to officers that the caravan is currently being used as a separate residential unit.

Using the information provided by the applicant in the background statement and time of events at the site, a summary of the timeline is outlined below in the table:

Date	History
2010	New caravan installed and occupied by the Applicant and his family.
8 th October 2010	Certificate of Lawfulness refused by the Authority on the basis of insufficient evidence
November 2010 – June 2011	Applicant moved to New Zealand and the caravan remained vacant
June 2011 – 2 nd September 2011	Applicant completed a private drainage system and extensive landscaping works
2 nd September 2011 – Spring 2013	Applicant split his time between the caravan and Cambodia Applicant installed mains electricity in July 2012
Spring 2013	Applicant returned to live in the caravan and installed a further electrical supply and a multi fuel log burner
Spring 2013 – December 2014	Applicant installed pay as you go electricity key fob and undertook studies at University of Wales College of Wales Aberystwyth. The Applicant lived in Aberystwyth during the term time and in the caravan during the holidays.
December 2014 – February 2015	Applicant went on an extended holiday to Tenerife
February 2015 – October 2015	Applicant lived in the caravan
October 2015 – April 2016	Applicant lived in Cambodia
April 2016 – October 2016	Applicant lived in the caravan
1st April 2017 – present	Applicant lives in the caravan, although the Applicant intends to carry on dividing his time between the UK and Cambodia so long as his parents' health permits

The Applicant himself has not provided a statutory declaration in support of the application, however one has been provided by a relative, Reverend William James, who states that a caravan has been sited since April 2010, and, since 2012 the

Applicant has resided in the caravan eight months of each year. There are also several other letters from various people known to the Applicant that confirm his intermittent occupation of the caravan since 2010.

Given the LPA conclusion that the ten-year continuous use rule applies, the information included with the application, which indicates usage for the period from 2010 to present day, is considered to be insufficient to justify the grant of a certificate in this instance. Whilst there is mention of a caravan being sited since 1985, it is acknowledged that it isn't the same caravan and the position of the caravan has been moved from its original position circa. 1985. There is no information included within the application to establish exactly when the old caravan was removed apart from the information from the applicant and the LPA's aerial photography, and whether the current caravan was brought on site simultaneously with such removal. The application itself refers to 2010 as the date the use begun. Furthermore, the period 1985 to 2010 was the subject of an application for a certificate of lawfulness that was submitted in 2010 under application reference NP/10/444 and was subsequently refused by the Authority, on the basis of insufficient evidence. In addition the applicant confirms in the application that prior to 2010 when he commenced use of the caravan; it was unfit for human habitation. For all of these reasons, the application can only be considered on the basis that the claimed use commenced in 2010 and that the requisite period of 10 years continuous uninterrupted use has not expired.

It may be possible that the applicant has further evidence in respect of the period from 2007 to 2010, but unfortunately no information/evidence has been submitted in support of the current application during these dates and any evidence prior to 2009 may be considered to contradict statements made in the application about the caravan being unfit for habitation until 2010 as well as aerial photography evidence that the LPA holds.

In any event, even if the Applicant could show use from 2007, he may struggle to prove this has been continuous and uninterrupted given the lengthy periods of time in which he is resident in various other countries, thus leaving the caravan unoccupied. Nevertheless, the LPA would consider this aspect as academic at this stage, given that the ten-year rule applies and that the information within the application at best only establishes a use for 7 years.

For completeness, the LPA have given some thought as to whether the use of the caravan as a residential dwelling is ancillary to the use of the main house (Elm House), especially given the fact that the caravan is on land owned by the Applicant's parents at Elm House which the application site is linked to. If that were the case, neither the four or ten-year continuous use rules would apply, since there is no change of use involved. However, there does not appear to be any evidence that would lead to the LPA considering the use as ancillary. This is on the basis that that the caravan currently seems fully capable of being used as an independent residential unit, and, more crucially, having regard to the distance of the caravan from the main house, it seems unlikely that there is any practical interdependence. The application itself discloses no such interdependence and falls outside of the residential curtilage of Elm House.

Conclusion

It is considered that the evidence provided in relation to permanent residential use of the caravan is not sufficient on the balance of probability to conclude that the caravan has been used as permanent residential accommodation for in excess of 10 years.

Recommendation

The level of evidence from 2010 to the present day is insufficient to justify the grant of a Certificate of Lawfulness of an Existing Use for the caravan as a residential unit in this instance, and the application should be refused.

Reason: The evidence/information provided is not sufficient to show the lawfulness of the development/use claimed.



199200m

199100m

199000m

205500m

205600m



NP 17 3 89

Pond

Pond

Pond

Tack

Haylands Lane

mobile home

agricultural buildings

Badgers Holt

57.3m

Swallow Loft

Lyngard

Shangrila

Selama

Travellin

The Contented Cottage

Sunny Bank

Cherrylea

Ridgeview View

Elm House

Four Winds

61.9m

A 413B

Swanlake

TCB

West Cottage

North View

Swanlake Cottage

61.5m

Pembrokeshire Coast National Park

26 JUL 2017

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sureline DESIGN SERVICES LTD

Tel: 07826 705493 E-mail: mail@sureline.org.uk

Site: Elm House, Jameston Job: Mobile home Client: Mr Steve Lewis

Drgs: Location plan File: Elm House Scale: 1:1250 Date: 26/07/17 Dm: MDH Drg no: 001 REV: A