
Appeal Decision

Site visit made on 20 September 2016

by Paul Dignan MSc PhD

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

Decision date: 28 October 2016

Appeal Ref: APP/Z3825/X/16/3151264

Woodfords, Shipley Road, Southwater, Horsham, RH1 9BQ

- 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 and Mrs Jones against the decision of Horsham District Council.
 - The application Ref DC/15/2353, dated 18 October 2015, was refused by notice dated 22 March 2016.
 - 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 siting of a caravan for ancillary residential use within the curtilage of an existing dwellinghouse.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

Reasons

2. For the avoidance of doubt, I should explain that the planning merits of the proposal are not relevant, and they are not therefore an issue for me to consider, in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
 3. The appeal property is a detached house on a relatively large plot. The proposal is to station a twin-unit mobile home, meeting the planning definition of a caravan, within the curtilage, to provide accommodation for Mrs Jones' parents.
 4. The application was refused on the basis that by virtue of the substantial size of the proposed caravan, that it would have all facilities needed for everyday living, and that it would appear physically and functionally separate from the main dwelling, the proposal would amount to a significant change in the character of the use of the land and would not be incidental to the enjoyment of the dwelling.
 5. The Council does not dispute that the proposed location for the siting of the caravan, to the rear of the dwelling house on a part of the property that was previously a tennis court, would be within the residential curtilage. Nor is there any dispute that the caravan would be self-contained in terms of the facilities
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required for day-to-day domestic living and therefore capable of being used as a self-contained dwelling. However, it is well established in law that a caravan can be stationed within the curtilage of a dwellinghouse without comprising a material change of use for planning purposes. Whether it is or not turns primarily on how the caravan is to be used.

6. The caravan would provide living accommodation for Mrs Jones' parents, who are elderly and have health problems. These are outlined in the statement submitted in support of the application. As time goes on it is anticipated that Mrs Jones' parents will require a greater degree of day-to-day assistance. Mr and Mrs Jones expect to become their primary carers, with the proposed arrangement allowing her parents to retain a degree of independence. However, it is emphasised that there is no intention that the caravan will be made available for separate independent residential use. Hot and cold water, and the electricity supply, would be from the main house, with no separate utility meters. The caravan will not have its own highway access or postal address, nor will it be registered as a separate unit of accommodation for Council Tax purposes. It is anticipated that the provision of meals, laundry facilities and housekeeping will be shared. Nor will there be any physical or functional separation of the land on which the caravan is proposed to be sited from the rest of the garden land.
7. Use of the caravan in the way set out in the supporting statement would not, in my view, result in a separate unit of occupation, in planning terms, and the use of the existing planning unit comprising the house at Woodfords and its grounds would remain in domestic residential use as a single dwellinghouse. The character of the use would not change.
8. Whilst I can appreciate the concerns of the Council, the size of the caravan and the facilities provided, which would be found in most large caravans, do not cast substantial doubt on the applicant's explanation of the use that is proposed. On the balance of probabilities I consider that that use proposed would be subordinate and ancillary to the use of the property as a single dwellinghouse. It would not result in a material change of use. For that reason I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of the siting of a caravan for ancillary residential use within the residential curtilage of Woodfords was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me under s195(2) of the Act.

Paul Dignan

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 October 2015 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed siting of the caravan within the residential curtilage and its use to provide accommodation associated with the main dwellinghouse for the applicant Mrs Jones' parents would have been subordinate and ancillary to the use of Woodfords as a single dwellinghouse and would not have given rise to a material change of use of the planning unit comprising Woodfords. It does not therefore involve development requiring planning permission.

Signed

Paul Dignan

Inspector

Date 28 October 2016

Reference: APP/Z3825/X/16/3151264

First Schedule

The siting of a caravan for ancillary residential use within the curtilage of an existing dwellinghouse.

Second Schedule

Woodfords, Shipley Road, Southwater, Horsham, RH1 9BQ

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 28 October 2016

by Paul Dignan MSc PhD

Land at: Woodfords, Shipley Road, Southwater, Horsham, RH1 9BQ

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