
Appeal Decision

Site visit made on 22 November 2016

by Simon N Hand MA

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

Decision date: 6 December 2016

Appeal Ref: APP/P0240/X/16/3149760

13 Ickwell Road, Upper Caldecote, Biggleswade, SG18 9BS

- 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 Neil Fiddes against the decision of Central Bedfordshire Council.
 - The application Ref CB/15/04806/LDCE, dated 10 December 2015, was refused by notice dated 11 February 2016.
 - The application was made under section 191(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 kennels for pet dogs that are a hobby and are reared for showing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of the use as this better defines the matters at issue.

Main Issue

3. Whether the keeping of dogs is ancillary to the use of the main dwelling.

Reasons

4. The keeping of dogs and building of kennels in a back garden is usually ancillary to the enjoyment of the dwellinghouse and so does not require planning permission. However, in certain cases, the number of dogs kept, the amount of land given over to the 'hobby' or the intensity of the 'use' is such that it crosses over from being ancillary to amounting to a material change of use. The courts have held that simply because something is a hobby does not make it necessarily ancillary and it is a matter of fact and degree in each case. Various appeal decisions have limited the number of dogs that can be kept in a dwelling to 6, but this is not a hard and fast figure and it does not follow that having more than 6 dogs is bound to be excessive, again it is matter of fact and degree, depending on the circumstances of the case.
5. In this case the facts are that the appellant has 9 dogs. Four Akita, which are large Japanese mountain dogs which live in kennels in the back garden. Two bulldogs, two pugs and a Griffon Bruxellois all kept in the house. The latter

five are relatively small dogs. The back garden, apart from a small patio area next to the house has been given over entirely to the dogs and turned into a hard surfaced yard with four kennels, a double and two singles that are clearly recently built and an older kennel at the bottom. I was able to see into the back of the house which also appeared to be given over to housing the dogs. The back yard had been scrubbed clean and there was a very strong smell of disinfectant.

6. In my view it is possible for a property to house this many and type of dog without it amounting to a material change of use, but in this case No 13 is a very modest cottage at the end of a terrace of mostly equally small cottages. They all have long but narrow gardens and as almost all the small garden and some of the small house have been given over to the keeping of dogs this suggests an intensity of use that is something more than a hobby ancillary to the enjoyment of the dwellinghouse. It therefore amounts to development requiring planning permission and I cannot issue a lawful development certificate.

Simon Hand

Inspector