



Appeal Decision

Site visit made on 2 August 2017

by Mr K L Williams BA, MA, MRTPI

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

Decision date: 15 August 2017

Appeal Ref: APP/M1595/X/17/3170946

123 Mollands Lane, South Ockendon, Essex, RM15 6DJ

- 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 S Carey against the decision of Thurrock Borough Council.
 - The application was dated 2 June 2016 and was refused by notice dated 20 October 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 described in the application as "mobile home unit has been on property for 23 years".
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Decision

1. The appeal is dismissed and a Lawful Development Certificate is not issued.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue a Lawful Development Certificate (LDC) was well-founded. Planning merits are not relevant in this case. They are not an issue for consideration in an appeal under section 195 of the Act, which relates to an application for an LDC. The burden of proof in this appeal rests with the appellant and the appropriate test of the evidence is the balance of probability. It is consistent with *Planning Practice Guidance (PPG)* that an appellant's case should be accepted if there is no evidence to contradict or otherwise make his or her version of events less than probable, provided that an appellant's evidence is sufficiently precise and unambiguous.

Reasons

3. An LDC application must relate to a specific existing or proposed use, operation or activity. An application under section 191(1) (a) should relate to a specific use of land which is already in place. *PPG (Paragraph 005 Reference ID: 17c-005-20140306)* explains that an LDC application needs to describe precisely what is being applied for. In this case, the LDC application specifies that "a mobile home unit has been on the property for 25 years." That is not a description of a use of land. Nor, for that matter, does the description used by the Council in its refusal notice amount to a use of land. It refers to refusing a certificate to "retain mobile home on the land."

4. I have considered whether the description of development in the application can be modified, having regard to the powers available under s191(4) of the Act as amended. However, there is nothing in the application or the submitted evidence which adequately conveys the precise nature of the use or the basis on which an LDC is sought. In particular it is not clear whether a certificate is sought on the basis that stationing of the mobile home on the land is for a purpose which is incidental to the residential use of no.123. If that was shown to be the case, and having regard to section 55(2) (d), the stationing of the mobile home would not amount to development. Alternatively, application could be made with regard to a material change of use to a mixed use of a dwelling house and the stationing of a caravan for residential purposes. This matter is central to the basis on which an LDC is sought. I therefore find that I am unable to modify the description of development.
5. Having regard to the above, I conclude that an LDC cannot be issued because the application fails to specify with sufficient precision the use for which a certificate is sought. The Council's decision not to issue an LDC was therefore well-founded, although not for the reasons set out in its refusal notice. My decision does not preclude the appellant from submitting a further LDC application which addresses these matters, perhaps with the benefit of professional advice, to specify precisely the use for which an LDC is sought and to address the related evidential requirements.

K Williams

INSPECTOR