
Appeal Decision

Site visit made on 12 April 2018

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 08 May 2018

Appeal Ref : APP/D3830/X/17/3180026

Land at Carisbrooke Manor, Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5QQ

- 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 lawful development certificate (LDC) by Mid Sussex District Council dated 2 June 2017.
- The appeal is made by Maximme Bontoux and Virginie Paulin.
- The application ref. DM/17/1370 was dated 27 March 2017.
- The application was made under section 192 (1) (a) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate is sought is (proposed) change of use of stable buildings to a mix of uses incidental to the main dwelling including ancillary accommodation, recreation room, swimming pool, plant room, utilities (laundry) and a study/office space.

Summary of Decision: the appeal is allowed and a certificate of lawful use or development is issued in the terms set out below in the Formal Decision.

Preliminary Matter

1. I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellants and the test of evidence is made on the balance of probability.

Main Issue

2. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

3. Carisbrooke Manor is a large detached Georgian style dwellinghouse set in a substantial plot with grounds that include gardens, a tennis court, swimming pool, paddock and parkland. The buildings the subject of this appeal consist of 25 largely single storey former stable units with a lower level of undercroft storage within the eastern elevation. The units are set along three sides of a courtyard, some of the units are current vacant and others are being used for uses ancillary to the dwellinghouse such as storage of

swimming pool equipment. There is a vehicular access to the courtyard and a pedestrian walkway from the courtyard to the main house.

4. A certificate of lawful use or development has been issued confirming the lawfulness of the erection of Carisbrooke Manor and its use as a dwellinghouse together with ancillary stables located to the south of the dwellinghouse.
5. The proposal the subject of this appeal is the change of use of the stable buildings to a mix of uses ancillary to the residential use of the main dwelling.
6. In considering whether the proposal amounts to a material change of use requiring planning permission it is necessary to identify the appropriate planning unit. The Appellants argue that the house and grounds represent a single planning unit and that the primary use of the planning unit is residential. I agree with that assessment. Although there is a wall around the main house and it has its own vehicular access separate to the access leading to the courtyard the walkway between the main house and the stable block provides easy access from the stable courtyard to the main house. The stable block is not severed from the dwellinghouse but is part of its grounds in the same way as for example the tennis court. It is part of the same unit of occupation, in single ownership, and is not physically and functionally separate from the house. As a matter of fact and degree I find that the grounds of the house, including the stable blocks, are part of one residential planning unit.
7. The proposed use is described as a mix of specific uses including ancillary accommodation, recreation room, swimming pool, plant room, utilities (laundry) and a study/office space. I consider that each of these uses is capable of being regarded as ancillary to use of a dwellinghouse. Given the size of the planning unit the scale of the proposed uses would not be disproportionate nor excessive for their stated purpose. The playing of games and swimming are often family activities that take place within a dwellinghouse. Laundry facilities and a study/office are uses incidental to a dwellinghouse. The accommodation proposed is not self-contained and not intended for commercial use but by visitors to the house. The proposed uses do not create any commercial or separate self-contained accommodation but facilitate recreational activities incidental to the residential use. There is nothing before me to cast doubt on the assertion that the proposed uses are genuinely and reasonably required or necessary in order to accommodate uses incidental to that of the main dwellinghouse. The Council argues that the certificate of lawful use or development concerning Carisbrooke Manor describes the dwellinghouse and stables as separate and distinct but the certificate expressly refers to the stable buildings as ancillary to the dwellinghouse.
8. The Council's reason for refusal is that the proposed works are not within the curtilage of the dwellinghouse and do not benefit from permitted development rights. But the test of curtilage is only relevant to application of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) or section 55(2) (d) of the 1990 Act

(as amended). The Council accepts that Class E of the GPDO concerns operational development and is not relevant in this case which concerns the use of the buildings. It is therefore not necessary for me to apply the established tests relevant to curtilage. In any event I have concluded that the proposed uses are incidental to the enjoyment of the residential use as such.

9. As a matter of fact and degree in the circumstances of this case I conclude that the proposed uses are ancillary to the primary residential use of the main house. No separate planning unit has been created. The proposal does not comprise a material change of use requiring planning permission. Accordingly, I shall grant the LDC.
10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a mix of uses ancillary to the residential use of the dwellinghouse was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

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

S. Prail

Inspector

LAWFUL DEVELOPMENT CERTIFICATE

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

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



IT IS HEREBY CERTIFIED that on 27 March 2017 the uses described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and marked in black on the plan attached to this certificate would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 as amended, for the following reason:

The uses described in the first schedule are ancillary to the residential use of the planning unit and do not comprise development requiring planning permission.

The development does not contravene the requirements of any enforcement notice in force.

S. Prail

INSPECTOR

Date: 08 May 2018

Reference: APP/D3830/X/17/3180026

First Schedule

A mix of uses including ancillary accommodation, recreation room, swimming pool, plant room, utilities (laundry) and a study/office space as shown on drawings number 407CMCLO1 – 407CMCLO9 (inclusive) submitted with the application the subject of this appeal.

Second Schedule

Land at Carisbrooke Manor, Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5QQ

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 uses/operations 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 uses/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation 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 operation is only conclusively presumed where there has been no material change, before the operations begun, in any of the matters which were relevant to the decision about lawfulness.



The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 08 May 2018

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Not to Scale

