

Appeal Decision

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2019

Appeal Ref: APP/M5450/X/18/3215344

39 Antoneys Close, Pinner HA5 3LP

- 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 Vincent Pitt against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3401/18, dated 27 July 2018, was refused by notice dated 4 October 2018.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is the use of caravan to be sited within the residential curtilage of dwellinghouse as incidental accommodation associated with the main 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 operation which is considered to be lawful.

Application for costs

2. An application for costs has been made by Mr Vincent Pitt against the Council of the London Borough of Harrow. This is the subject of a separate Decision.

Preliminary Matters

3. The application form did not include a description of the proposed development but cross refers to "attached submissions". The attached submissions document states that the proposal is to station a caravan within the residential curtilage of 39 Antoneys Close for use as incidental accommodation associated with the main dwellinghouse. The description set out on the appeal form was similar but more succinct and that is what I have used above. That is also consistent with the description of the proposal on the Council's decision notice.
4. The appeal turns on matters of law rather than planning merits and relate to the proposed development as set out by the appellant.
5. The Council refused the LDC on the basis that a building is proposed which

does not conform to the permitted development limitations set out within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (Class E of the GPDO). This and the Council's analysis within their officer's report indicates that the Council considered the proposal would be operational development within the terms of s55(1A) of the Act as carrying out of "building operations". That is however not what the appellant applied for and the application forms confirm that no operational development would be involved.

6. A caravan sited on land that remains capable of being wholly moved intact, is not a building and the size parameters of what may or may not be permitted development within Class E of the GPDO, are not relevant. It is relevant to consider what use the caravan is proposed to be put to once it is placed within the site. The main issue to consider therefore is whether such use would be a material change of use of the land within the appeal site.

Reasons

7. The appellant states that the caravan would be for use as incidental accommodation associated with the main dwellinghouse for his daughter when home from university. It is confirmed that meals would be shared in the main house as would other domestic needs such as laundry facilities.
8. There is no dispute by the Council that the caravan would be located within the lawful residential curtilage of the dwelling at 39 Antoneys Close which it is reasonable to consider is the planning unit. It is necessary to consider the effect that the introduction of the caravan and the use to which it is proposed to put it to, would have on the use of the planning unit.
9. The details provided show normal facilities that one would expect within a caravan which are designed for being lived in. However, even though this does include kitchen facilities as caravans generally do, there is no intention to use the caravan for the occupation of a separate household independent from the main house. There is no proposal to create separate access to the caravan and no proposal to separate the caravan from the rest of the garden. The use of the caravan as proposed would not subdivide the site to create a new planning unit and the whole appeal site would remain in single family occupation. There are some similarities in these respects with the Uttlesford case to which the appellant has referred.
10. Thus, the use of the caravan as described by the appellant and shown on the submitted plans would not create a new planning unit. It would not be on land physically separate or distinct from, or occupied for different or unrelated purposes to the use of the existing dwellinghouse within the same planning unit and would not involve a material change of use of the site. If these circumstances turned out to be or became different from the details provided with the application in the future and a material change of use of the land did occur, that would be a matter for the Council to consider at that time.
11. 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 the use of a caravan to be sited within the residential curtilage of a dwellinghouse, as incidental accommodation associated with that 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.

Andy Harwood

INSPECTOR



Lawful Development Certificate

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

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

IT IS HEREBY CERTIFIED that on 27 July 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposal as applied for would not result in a material change in use of the existing property.

Signed

A Harwood
Inspector

Date 9 September 2019

Reference: **APP/M5450/X/18/3215344**

First Schedule

The use of caravan to be sited within the residential curtilage of dwellinghouse as incidental accommodation associated with the main dwellinghouse.

Second Schedule

39 Antoneys Close, Pinner HA5 3LP.

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, not 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: 9 September 2019

by Andy Harwood CMS MSc MRTPI

Land and building at: 39 Antoneys Close, Pinner HA5 3LP

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Not to scale (1:1250 at original size)



