



Appeal Decision

Site visit made on 22 October 2019

by Simon Hand MA

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

Decision date: 28 October 2019

Appeal Ref: APP/J0405/X/19/3225877

Greenlands Oak Farm, Brackley Road, Water Stratford, Bucks, MK18 5DP

- 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 Nigel Surman against the decision of Aylesbury Vale District Council.
 - The application Ref 18/04454/ACL, dated 6 December 2018, was refused by notice dated 29 March 2019.
 - 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 proposed replacement of an existing mobile home with a new twin unit mobile home foul water services to be linked into existing septic tank system.
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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.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Reasons

3. The Council refused the application as they do not consider the proposed unit is a mobile home as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended). Their concerns are confined to the issues of the construction test and the mobility test.
4. The construction test is that the unit must not have more than two sections and should be designed to be assembled on site by means of bolts, clamps and other devices. In this case the unit is manufactured in Romania as a kit. It is shipped to the site and constructed there. The two halves are assembled on site from the kit pieces. Having created the two halves they are fastened together by means of bolts and clamps. This process is not disputed by the Council but they argue it is essentially a pre-fabricated dwelling not a caravan and the manufacturer has manipulated its specification to suit the requirements of the Act.

5. The appellant has provided an appeal decision¹ from 2002 where the Inspector considered there was no requirement for the two halves to be constructed off-site, as long as the final act of assembly met the requirements of the Act, then the construction test was passed. This decision seems to be well known and was given to me when determining a similar appeal² in Wimborne earlier this year which involved a similar mobile home from the same company. I have no reason to demur from that view. The appellant has also provided a survey report from an expert in mobile home construction describing the method of construction as that described above. In other words the mobile home would comprise two halves joined together on site by means of bolts and clamps. I have no evidence to suggest any of this is inaccurate and in the Wimborne appeal I was able to see the finished product on site and had considerable evidence as to its construction. There would seem to be no reason therefore why the construction method test is not satisfied in this appeal.
6. The mobility test is that once constructed the mobile home should be capable of being transported by road. Again the appellant, as part of the survey report has provided a quote from a crane company claiming to be able to do just that. As there is no counter evidence from the Council it would seem the mobility test is passed.
7. I agree with the Council this whole process has an element of artificiality simply designed to ensure the structure falls within the limits set by the Act, but that is not really relevant. It is either a mobile home or not and in this case it is. I shall allow the appeal and grant the certificate applied for.

Simon Hand

Inspector

¹ APP/N1025/C/01/1074589 – The Borrowash Appeal

² APP/U1240/C/18/3204771 & 3207038 & 3219361 - Trotters Plot, Wimborne

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 6 December 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 structure meets the definition of a mobile home.

Signed

Simon Hand

Inspector

Date: 28 October 2019

Reference: APP/J0405/X/19/3225877

First Schedule

Proposed replacement of an existing mobile home with a new twin unit mobile home foul water services to be linked into existing septic tank system.

Second Schedule

Land at Greenlands Oak Farm, Brackley Road, Water Stratford, Bucks, MK18 5DP

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, was 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: 28 October 2019

by Simon Hand MA

Land at: Greenlands Oak Farm, Brackley Road, Water Stratford, Bucks, MK18 5DP

Reference: APP/J0405/X/19/3225877

Scale: not to scale

