



Appeal Decision

Site visit made on 27 January 2020

by Katie Peerless Dip Arch RIBA

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

Decision date: 6 February 2020

Appeal Ref: APP/T1410/X/18/3217202

2 Old Camp Road, Eastbourne, BN20 8DH

- 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 & Mrs Alan and Tricia Cruse and Mr & Mrs Stevens against the decision of Eastbourne Borough Council.
 - The application Ref PC/180068, dated 22 January 2018, was refused by notice dated 10 May 2018.
 - 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 the use of land to station a mobile home/annexe for use incidental to the main dwelling house.
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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 extent of the proposed use which is considered to be lawful.

Procedural matter

2. Although the wording of the application is for a generic use of the garden of 2 Old Camp Road for the stationing of a mobile home for use as an annexe to the main house, the appellants have submitted plans showing the size, type and location of the mobile home that they wish to place on the land.
3. After the application that is the subject of this appeal was refused, the Appellants re-submitted the application showing a unit that is the same width and height, but about half the length, of the appeal proposal and the revised scheme has been granted a LDC¹ by the Council. The principle of siting a caravan/mobile home in the rear garden of the appeal property for the stated purpose of providing ancillary living accommodation for the elderly parents of one of the appellants has therefore been accepted by the Council.

Main Issue

4. I consider the main issues in this case are whether the siting and use of the proposed mobile unit can be considered as ancillary to the residential use of the main house, and whether the Council's decision that it would not, was well founded.

¹ Ref: PC/180674 dated 3 August 2018

Reasons

5. The appeal property is a substantial detached house with a generous garden in a residential road in Eastbourne. The appellants consist of an elderly couple who presently live in the main house and their daughter and her husband. They are hoping to have a 'twin unit' mobile home stationed in the rear garden of the property to provide annexe accommodation for the older couple.
6. They state that the couple using the mobile home will be cared for and supported by their daughter and son-in-law and, whilst sleeping in the annexe, will still use the main house for meals, laundry facilities and socialising as a family. This arrangement would mean that the use of the site would remain as a single dwellinghouse, with the mobile home providing ancillary accommodation.
7. The appellants also submit that the mobile home that they are hoping to install meets the definition of a twin-unit caravan as defined by Section 29(1) of the Caravan Sites & Control of Development Act 1960 (CSCDA). This definition includes *'any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)'*.
8. Section 1 of the first Schedule of the CSCDA states that a site licence is not required for the use of land as a caravan site if the use is *'incidental to the enjoyment as such of a dwellinghouse within the curtilage of which the land is situated'* and, as noted above, the Council has accepted that this applies to the smaller unit. The appellants submit that the larger unit can also therefore be lawfully stationed on the site to provide ancillary residential accommodation in association with the main house.
9. Limits on the size of twin-unit caravans are found in Sections 13(1) & (2) of the Caravan Sites Acts 1968 (as amended) (CSA) and they must not *'exceed any of the following limits, namely:- (a) length (exclusive of any drawbar):- 65.616 feet (20m); (b) width:- 22.309 feet (6.8m); (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level):- 10.006 feet (3.05m)'*.
10. Also, they must be *'composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices'*. The fact that the unit may not be able to be lawfully moved on a highway does not prevent it from being classified as a caravan, it just needs to be physically capable of being so moved.
11. The appellants note that the mobile unit proposed in the appeal scheme and the smaller one subsequently granted an LDC are both twin-units. The only difference between the two applications is that the appeal unit would be longer but, as accepted by the LPA, its dimensions also fall within the maxima provided by the CSA. However, the Council is concerned that the larger unit would not meet the construction and mobility tests as set out in the CSA and that it would be too large to be properly considered as incidental to the main dwelling.
12. The submitted plans show that it would be about 6.3m wide, 18.3m long and have a maximum internal floor to ceiling height of 3.027m and would therefore meet the size requirements for a twin unit caravan in the CSA.

13. The appellants have provided confirmation from a structural engineering company that the twin-unit mobile home proposed for this site could be craned into position in 2 pieces which are designed to then be joined together on site, thereby meeting that requirement of the CSA. They also confirm that the unit, once assembled, could again be craned off the site in one piece. The Council, nevertheless, still questions whether this would be possible and states that the appellants have given insufficient details as to how this would be achieved.
14. In response, the appellants draw attention to another appeal decision² where permission was granted for a unit in 2 sections which had originally been fabricated in a factory but *'after ascertaining that access to the site was not conducive to delivery in two sections, it was taken apart and transported to the site in smaller segments. It was then re-assembled into two sections which were bolted together in the conventional way envisaged by section 13. The Inspector found: 'That would meet the provision in section 13 for the final two sections to be assembled on site.'*
15. However, there are other decisions that take an opposite view and I am not persuaded that the meaning of the CSA necessarily envisages the operation described in the above paragraph. If it did, there would seem to be no reason for the specific requirement to have a unit limited to 2 sections which are assembled on site. It therefore seems to me that, if it proved impossible to lift the 2 halves of the proposed unit over the existing house by crane, the unit would not meet the definition of a 'caravan'.
16. Nevertheless, it has not been shown that this could not be achieved and, as noted above, the ability to do so would be a prerequisite of the issue of a LDC. If the proposed unit proved not to be able to meet the practical requirements of the CSA, it would not be covered by the LDC and could be required to be removed. With respect to whether it could be moved by road, the CSA definition covers caravans larger than proposed here, and the implication is that units of such size can be capable of being moved by road, otherwise the definition would be meaningless. I have been given nothing to suggest that the unit proposed could not be transported by road as required by the CSA.
17. The Council also consider that, having granted a LDC for a smaller unit, there is no evidence that a larger one is genuinely required or could be considered *'incidental'* to the main house.
18. The appellants point out that the mobile home would be used in the same way in both situations and would remain subservient to that of the main dwelling. To counter the Council's assertion that the main house could provide all essential accommodation, they have also explained in detail why an annexe is needed to meet the requirements of the whole family. The only real difference between the 2 proposals would be the provision of a greater level of comfort for the occupants of the caravan. This must be a matter of some importance for them, given that they would be moving out of a much larger property in order to allow their close family to move into it and take care of them.
19. This does not seem to me to be unreasonable in their situation and, given the comparative size of the house and its garden, the larger unit seems to me to be a proportionate addition that would not be overly dominant and still be incidental to the residential use of the house. I therefore see no reason why a larger unit should be refused a certificate in this situation.

² Ref: APP/Q1153/C/08/2064995

Conclusions

20. 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 stationing of a mobile home/annexe for use incidental to the main dwelling house 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.

Katie Peerless

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 22 January 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 use of the site for the stationing of a mobile home/annex does not require planning permission and is authorised by Section 1 of the first Schedule of the Caravan Sites & Control of Development Act 1960 provided the use is incidental to the enjoyment as such of the dwellinghouse within the curtilage of which the land is situated and the unit meets the definition of a caravan as defined in Sections 13(1) & (2) of the Caravan Sites Acts 1968 (as amended) for use as a residential annexe and is as described in the Planning Statement dated January 2018 that accompanied the application.

Signed

Katie Peerless
Inspector

Date **6 February 2020**

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First Schedule

The stationing of a mobile home/annexe for use incidental to the main dwelling house.

Second Schedule

Land at 2 Old Camp Road, Eastbourne, BN20 8DH

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 /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, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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 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: **6 February 2020**

by Katie Peerless Dip Arch RIBA

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Scale: NTS

