



Appeal Decision

Site visit made on 8 June 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2021

Appeal Ref: APP/T3725/X/21/3266375

12 Warmington Grove, Warwick CV34 5RZ

- 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 and Mrs Darcy Craven against the decision of Warwick District Council.
 - The application Ref W/20/1189, dated 10 March 2020, was refused by notice dated 11 December 2020.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act)
 - The use for which an LDC is sought is the proposed siting of a mobile home/caravan for incidental/ancillary residential use.
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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 Mr and Mrs Darcy Craven against Warwick District Council. This application is the subject of a separate Decision.

Preliminary matters

3. Section 192(2) of the 1990 Act indicates that if, on an application under that section, the Council is provided with information satisfying it that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application.
4. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.
5. Planning Practice Guidance is clear that the applicant (or in this case the appellants) is responsible for providing sufficient information to support an LDC application¹.

¹ Lawful development certificates, paragraph: 006 Reference ID: 17c-006-20140306

Main Issue

6. This is whether the Council's decision to refuse to issue an LDC was well-founded. The decision turns on whether the provision of a mobile home/caravan within the curtilage for incidental/ancillary residential use to the main house would constitute a material change of use of the land, which would require planning permission.

Reasons

7. The appellants seek an LDC to site a mobile home within the garden of their home at 12 Warmington Grove. The use of the mobile home is described as additional living accommodation incidental to the main house rather than separate self-contained residential accommodation.
8. It is undisputed between the parties that, provided the mobile home remains a moveable structure that meets the definition of a "caravan" within the Caravan Sites and Control of Development Act 1960 as amended by the Caravan Sites Act 1968, then it would not constitute a building. Neither is it contested that the proposed siting of the mobile home, as shown on the submitted site plan, would be within the residential curtilage of 12 Warmington Grove.
9. The mobile home would contain a basic kitchenette, a bedroom, bathroom and living area. The mobile home would not be registered as a separate unit of occupation for the purpose of Council Tax. The Council accepted that the proposed unit would share utility services and bills and would not have a separate access or postal address. However, the Council noted that the mobile home would be sited some distance from the main dwelling, "at the far end of an unusually long garden". This, it was said, limits the physical relationship between the house and the proposed mobile home, adding weight to the argument that the mobile home, which includes all of the necessary facilities, would not be ancillary.
10. The mobile home would be positioned some 25m from the main dwellinghouse within a garden that is surrounded on all sides by residential properties. It would be occupied by Mr Edwards who is Mr Craven's Godfather and a surrogate grandfather to the appellants' daughter. Mr Edwards has a long and close family-bond² with the appellants, and he currently resides with the appellants at their home address. The application for the LDC outlined Mr Edwards' health issues and provided information to demonstrate how the mobile home would enable him to continue to stay with the appellants, who in turn would be able to provide close support and assistance in managing his health and well-being. I note that part of the reason for providing the mobile home for Mr Edwards is because, when the application was submitted, the appellants were expecting another child and naturally, room within the house would be more limited.
11. The Council note the positive impact on mental and physical wellbeing provided within the doctor's letter. However, they argue that the evidence submitted is not sufficiently precise or unambiguous to indicate that there is an immediate need for Mr Edwards to be fully cared for by the family.
12. However, the issue requiring consideration regarding this appeal is not whether there would be an independent residential use, but rather, whether the

² Since at least 1986 – evidence provided by a written statement from Mr Edwards

proposal would involve a material change of use of land and thus amount to “development” within the meaning of section 55(1) of the 1990 Act. Although the mobile home would be equipped with all the facilities required for independent day-to-day living, it does not follow automatically that once occupied there would be a material change of use simply because primary living accommodation is involved. Much depends on how the unit would actually be used and the proposal should be assessed on the basis of the stated purpose and not what might possibly occur. If there is no material change of use of the land, then there can be no development requiring planning permission.

13. In *Uttlesford DC v SSE & White*³ the judge considered that, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. The occupant of the annexe in the Uttlesford case was living alone and was in need of care at the time the application was being considered. Whilst the annexe was fully self-contained and gave the occupant some independent space, the level of dependency on the occupiers of the main dwelling for the care received was sufficient to tip the balance in favour of the annexe being ancillary to the main dwelling. The situation is akin to a ‘granny annexe’ in a separate building in the curtilage of the main dwellinghouse, which would normally be regarded as part and parcel of the main dwellinghouse use.
14. In these circumstances, the appellants provide that they are a close-knit family unit that supports and relies on one another in a range of ways including emotional care and support, childcare support, domestic support, general care regarding health and wellbeing and also financial support for one another. In the appellant’s view the family unit demonstrates all the features defined in the term “interdependency relationship”.
15. From the evidence before me, it is clear that there would be a family and functional link with the land which would remain in single ownership and control. The proposed use of the mobile home in the manner described would not involve physical or functional separation of the land from the remainder of the property. The character of the use would be unchanged. Thus, the use described would form part of the residential use within the same planning unit. Only if operational development which is not permitted development is carried out or if a new residential planning unit is created, will there be development. From the application, neither scenario is proposed. Accordingly, the proposal would not require express planning permission.
16. An LDC can only certify the use applied for. If the mobile home is not used in association with the dwelling, as described, and the functional link is severed, then it would not benefit from the LDC.
17. In the circumstances of this case, I find that the siting of a mobile home in the garden of 12 Warmington Grove for the provision of additional living accommodation as described in the application would, as a matter of fact and degree, have been lawful at the time of the application. My findings in this regard are consistent with the approach taken to the application of the law in the other Appeal Decisions⁴ brought to my attention by the appellants.

³ [1992] JPL 171

⁴ APP/K3605/X/12/2181651, APP/L5810/X/15/3140569, APP/C1950/X/19/3247983, APP/Y0435/X/15/3129568

Conclusion

18. 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 siting of a caravan for ancillary use 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.

S A Hanson

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 10 March 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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 proposed siting of the mobile home/caravan and its use as incidental/ancillary residential use associated with the main dwellinghouse at 12 Warmington Grove, Warwick CV34 5RZ, as described in the statement accompanying the application, would be part and parcel of the residential use within the same planning unit and would not constitute development requiring planning permission.

Signed

S A Hanson
Inspector

Date: 7 July 2021

Reference: APP/T3725/X/21/3266375

First Schedule

The proposed siting of a mobile home/caravan for incidental/ancillary residential use.

Second Schedule

Land at 12 Warmington Grove, Warwick CV34 5RZ

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: 7 July 2021

by S A Hanson BA (Hons) BTP MRTPI

Land at: 12 Warmington Grove, Warwick CV34 5RZ

Reference: APP/T3725/X/21/3266375

Scale: NOT TO SCALE

12, Warmington Grove, Warwick, Warwickshire, CV34 5RZ

