



Appeal Decision

No site visit

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 07 September 2023

Appeal Ref: APP/T0355/X/22/3309310

Park Farm, Winter Hill Road, Cookham, Maidenhead, SL6 6PJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Pepe Parra against the decision of Royal Borough of Windsor and Maidenhead.
 - The application ref 21/03710/CLU, dated 21 December 2021, was refused by notice dated 13 September 2022.
 - The application was made under section 191(1) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is a 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 use which is found to be lawful.

Preliminary Matters

2. A site visit was not necessary in this case as the matters rest on the history of planning applications.

Main Issue

3. The main issue in this case is whether the development is controlled by the outline planning permission (7608/67) with the later approval (7994/68) as a reserved matters application, or whether the later approval was a full permission in its own right, unrelated to the outline approval.

Reasons

4. For LDCs the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If there is no evidence to contradict it or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is precise and unambiguous to justify the grant of a certificate on the balance of probability.
5. There was approval in 1967 (reference: 7608/67) on an outline application for a detached agricultural cottage. There were conditions on the approval, including requiring submission of reserved matters and another limiting use to an agricultural worker's cottage. Agricultural and Fisheries advice was that they were doubtful that an agricultural connection was necessary as it was a replacement dwelling.

6. The second permission in 1968 (7994/68) was for the "two storey dwelling". There is no mention of the outline application or approval of reserved matters. In question 5 it asks 'are you aware of any previous planning decisions affecting this land? If so give details'. The outline permission was not identified. I would expect this to have been identified either way, but if this was a follow up of the reserved matters to a previous outline application the balance of probability is that it would have been identified.
7. On a request form related to the application County Planning Officer's Recommendations, the outline approval is noted, but it does not say the application is directly related to it. Another document in observations notes the existence of the outline permission.
8. However, the planning permission itself is to permit the above development (7994/68, erection of two storey dwelling) to be carried out in accordance with the application and accompanying plans approved on the 15 October 1968 subject to compliance with conditions. There is no mention of the outline application or its conditions on either the application or permission. In addition, the permission has an unnecessary condition if it were related to the outline permission (materials).
9. I note that the Council consider it likely that it was approval of reserved matters because it followed closely the outline permission. However, that proximity does not make it linked and the appellant's explanation of the agricultural and fisheries comments changing the situation and applicant's approach is not unreasonable.

Conclusion

10. While there are some references to the original outline application on the Council's documentation for the second application, with observations of the existence of the outline approval, I do not consider it is directly linked to it. There is no mention of the outline application on the second application form or the approval itself. A planning permission needs to be read in the context of the application and permission granted. Any reader looking at this application and permission would not read it as being related to the previous outline permission.
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 a 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.

Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 21 December 2021 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence of the application form and permission indicate that the development is controlled by the later permission (7994/68) in its own right, so conditions attached to the earlier outline permission (7608/67) do not apply to it.

Signed

Graham Dudley
Inspector

Date: 07 September 2023
Reference: APP/T0355/X/22/3309310

First Schedule

Detached dwelling

Second Schedule

Land at Park Farm, Winter Hill Road, Cookham, Maidenhead, SL6 6PJ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 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 was 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 07 September 2023

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Land at: Park Farm, Winter Hill Road, Cookham, Maidenhead, SL6 6PJ

Reference: APP/T0355/X/22/3309310

Scale: Not to Scale

