



Appeal Decision

Site visit made on 14 December 2023

by Thomas Shields DipURP MA MRTPI

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

Decision date: 02 January 2024

Appeal Ref: APP/G2815/X/22/3313962

42 Meadow View, Higham Ferrers, Northamptonshire, NN10 8EW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Victoria Blows against the decision of the North Northamptonshire Council.
 - The application Ref. NE/22/01392/LDP, dated 4 November 2022, was refused by notice dated 20 December 2022.
 - The application was made under section 192(1)(a) of the Act.
 - The development for which a LDC is sought is siting of a mobile home/caravan within curtilage of existing dwelling for ancillary residential use.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is considered to be lawful.

Procedural matters and background

2. In order for a LDC to be granted under s192 it is necessary for an appellant to demonstrate, on the balance of probabilities, that at the date of the application any proposed operations or use would be lawful.
3. The appellant submitted very limited information with the application which led to the Council's decision to refuse the application, but has since provided additional information in her appeal submissions.
4. In this regard the purpose of the LDC provisions are to enable the making of an objective decision based on the best facts and evidence available when a decision is taken. This is made clear in the Act in that appeals under s195 relate to whether the 'refusal' (the Council's decision) was well-founded, rather than the Council's reasons for that refusal. I have therefore taken the appellant's further submissions into account in reaching my decision.

Main Issue

5. The main issue is whether the Council's decision not to issue an LDC was well founded.

Reasons

6. The appellant has supplied images and maximum dimensions of the proposed mobile home. Given its typical mobile-home construction and form it would be capable of being moved by road from one place to another, either by being

towed, or by being transported on a motor vehicle or trailer, and there is no evidence before me to suggest otherwise.

7. Based on this information I am satisfied that it would ordinarily fall within the definition of a 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 as amended by the Caravan Sites Act 1968. Accordingly I will clarify the dual description of the proposal from "mobile home/caravan" to simply "caravan".
8. From my own observations at the site I am satisfied that the caravan would be located within the curtilage of the host property at No. 42.
9. The appellant explains in her application and appeal forms how the caravan would be used for ancillary purposes as an "annexe", being for additional sleeping quarters by family members, also using the main property's facilities and services, with no division of the plot. This would facilitate the appellant's care of elderly family members residing in the main dwelling.
10. Given all these factors I consider there would be a close family and functional link between the use of the caravan and the main dwelling with no physical or functional division of the land into separate planning units. As such, rather than the use of the caravan being ancillary, the character of the use of the land would remain as a primary residential one throughout the same single planning unit. Consequently, there would be no material change of use amounting to development within s55 of the Act, and hence since the proposal would not involve development it would be lawful.

Conclusion

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 caravan within the curtilage of the existing dwelling for ancillary residential use at 42 Meadow View, Higham Ferrers, Northamptonshire, was not well-founded and that the appeal should succeed. I exercise accordingly the powers transferred to me under section 195(2) of the 1990 Act as amended.

Thomas Shields

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 4 November 2022 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 a caravan and its use as additional residential accommodation associated with the main dwellinghouse, as described in the information accompanying the application and appeal, would be part of the primary residential use within the same planning unit and would not constitute development requiring planning permission.

Signed

Thomas Shields

Inspector

Date: 02 January 2024

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First Schedule

Siting of a caravan within the curtilage of the existing dwelling for ancillary residential use.

Second Schedule

Land at 42 Meadow View, Higham Ferrers, Northamptonshire, NN10 8EW

IMPORTANT NOTES – SEE OVER

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: 02 January 2024

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