



Appeal Decision

Site visit made on 16 January 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/E0345/X/23/3315074

30 Westwood Glen, Tilehurst, Reading RG31 5NW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Helena Cook against the decision of Reading Borough Council.
 - The application ref 221325, dated 7 September 2022, was refused by notice dated 2 November 2022.
 - 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 a caravan (movable) to be used as ancillary accommodation.
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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 found to be lawful.

Preliminary Matters

2. The application was made under Section 192 of the Act, for a certificate of lawful use for proposed use. However, at my site visit I saw that a unit of accommodation had already been placed on the appeal site, in broadly the location of the proposal. That existing unit was not entirely consistent with the drawings of the unit proposed under the application. However, I have based my decision on the details that were submitted with the application. Should there be any material differences between that which exists and that which I have considered, that is a matter for the Council to consider.
3. At the site visit the appellant informed me that the details of the structure submitted with the application were not what they had wished to be submitted. However, that is a matter between the appellant and their agent, I have considered the details that are before me.

Main Issue

4. The main issue is whether the Council's decision to refuse the certificate was well-founded, having regard to whether the proposal falls within the definition of a caravan, and if so, also having regard to the relationship with the main dwelling.

Reasons

Whether a caravan

5. The Caravan Sites and Control of Development Act 1960 (CSCDA) defines a caravan as a structure designed or adapted for human habitation which is capable of being moved from one place to another. The Caravan Sites Act 1968 (CSA) defines a twin-unit caravan as a structure designed or adapted for human habitation. In this light, the tests for determining if a structure is a caravan are commonly referred to as the construction, size, and mobility tests.
6. At the time of the application, the Council considered that there was insufficient evidence to demonstrate that the proposed structure fell within the definition of a caravan. With the appeal, the appellant has submitted additional information in respect of this matter. The Council now state that it has no evidence that differs from that provided by the appellant, such that it could be concluded that the structure would not accord with the construction and size tests for a caravan. There is nothing before me that would lead me to find otherwise.
7. In terms of its mobility, the Council contends that the structure is intended to be left in one place so that it acquires a planning significance, and a degree of permanence is inferred from the positioning of a path between it and the dwelling. Moreover, in the Council's view, the positioning of the structure behind a shed further indicates intended permanence.
8. The appellant has highlighted that there is a tow hitch attached to the unit and states that it can be moved from the site by towing without suffering structural damage. The Council has not countered this with any evidence. Furthermore, a caravan can be in situ for a considerable period while still being a use of land, rather than a building operation. I do not find that the presence of a path or the positioning of the unit infers that it would be a building, rather than a use of land.
9. In support of its view, the Council refers to the *Skerritts*¹ case. However, that case related to whether a structure should be considered a building. It was not in relation to a caravan, which by its very definition is not a building. As such, I find reference to this case has little bearing on my decision.
10. I therefore find that the proposed structure is not a building but is a caravan, and thus a use of land.

Relationship to main dwelling

11. The Council raise concern that the unit is capable of being used as a self-contained dwelling, containing a bedroom, kitchen, shower and living room. While this may be the case, this is also true of many caravans. While there is capability to function as a separate dwelling, it is the use to which the caravan is proposed to be put that is the relevant consideration here.
12. The application is in respect of a proposed use and the appellant has clearly stated that the unit would be used for ancillary accommodation, rather than a separate dwelling. The Council has not presented any cogent evidence to demonstrate that the caravan would be used as a separate unit of accommodation, other than to say that the physical relationship to the main

¹ *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No. 2) [2000] EWCA Civ 5569

dwelling together with the internal layout of the unit is not conducive to shared living activity.

13. However, it is often the case that such ancillary accommodation is located some distance from a main dwelling. In this case, the unit is not positioned at such a distance to infer that it would not be practicable to use as additional accommodation. There is no suggestion that separate services exist, or any separate arrangements in terms of use of garden space. Thus, I am satisfied that based on the submitted information and my observations of the site, that a close functional relationship with the main dwelling is possible, and that a separate unit of accommodation is not proposed.

Other Matters

14. The Council refers to the consideration of the effect on the living conditions of neighbouring occupiers should a planning application have been submitted. However, such a matter is not relevant to the consideration of a lawful development certificate.

Conclusion

15. I therefore find that the proposed unit would be a caravan, and that there would be a close physical and functional relationship with the main dwelling. Thus, the proposed structure would not comprise operational development, or the creation of a new planning unit.
16. 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 (movable) to be used as ancillary accommodation 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.

Martin Allen

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 7 September 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed structure would be a caravan, not a building, and its use as ancillary accommodation would not result in any material change of use of the land. As such, planning permission is not required.

Signed

Martin Allen

Inspector

Date: 15 March 2024

Reference: APP/E0345/X/23/3315074

First Schedule

Caravan (movable) to be used as ancillary accommodation.

Second Schedule

Land at 30 Westwood Glen, Tilehurst, Reading RG31 5NW

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 /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: 15 March 2024

by Martin Allen BSc (Hons) MSc MRTPI

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Scale: Not to Scale

