



Appeal Decision

Inquiry held on 26 March 2024

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/L1765/X/23/3333171

**Skylark Golf and Country Club, Skylark Meadows, Whiteley, Fareham
PO15 6RS**

- 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 Derek McNeill of Skylark Golf and Country Club Ltd against the decision of Winchester City Council.
 - The application Ref 22/01651/LDP, dated 22 July 2022, was refused by notice dated 13 October 2023.
 - 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 was sought was described as: "The hosting of up to 120 weddings per year."
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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. I have taken the description in the heading above from the covering letter for the application as no description of the use is provided on the application form.
3. As is clear from the single drawing submitted with the application (drawing no. 8751-S 01-A), the land to which this application relates consists only of the listed barn on the golf course and not the whole golf course.
4. I held a Case Management Conference (CMC) with the main parties on 19 January 2024. At the CMC I raised 6 'Matters of Clarification', including the following, which are recorded in my CMC Note:

"There are matters the Inspector requires to be clarified, including the following:

- (i) *The land and description for the application, bearing in mind what the planning unit is and that the site address is not exclusively used for weddings and the red line on the site plan appears to outline a single building.*

It is suggested that the appellant carefully considers this point and whether the red line site plan and/or description require any amendment in this regard. This must be discussed with the Council and addressed by the time of opening submissions. [...]

(iii) The Council's Statement of Case indicates that conditions are suggested and the appellant's acoustician seems to think conditions may be imposed. But there is no statutory provision to impose any conditions on an LDC. Are there any suggested conditions that indicate the description should be amended?

Both main parties should carefully consider and discuss this question and confirm their response by the time of opening submissions."

Main Issue

5. The main issue is whether the Council's decision to refuse the application is well-founded.

Reasons

6. Under section 192(1) of the 1990 Act, if any person wishes to ascertain whether any proposed use of buildings or other land would be lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the use in question.
7. Under section 192(2), if, on an application under this section, the local planning authority are provided with information satisfying them that the use described in the application would be lawful if instituted at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
8. In an LDC appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities.
9. At the Inquiry the main parties agreed an amended description for the use, as follows:

"The hosting of up to 120 wedding ceremonies (not receptions) per year, within the listed barn (List Entry Number: 1157561), between the hours of 0800 and 1800 consisting of no more than 1 ceremony per day with no more than 90 guests."
10. On the basis of the above amended description, the Council then confirmed at the Inquiry that it would grant an LDC in those terms.
11. The local resident who attended the Inquiry expressed that he was content with the agreement which had been reached and no interested party objections were raised at the Inquiry.
12. I have considered the written interested party representations received. These refer to matters outside of the land to which this application relates and activities beyond the amended description. Those representations do not assist me in forming a view on the lawfulness of the proposal.
13. In any event, views expressed by third parties on the planning merits of the case, are irrelevant when determining the application as planning merits are not relevant at any stage in this particular application or appeal process.
14. The amended description is narrower than that originally provided by the appellant and reflects the proposal as described in the appellant's evidence, in terms of precisely what is proposed within the barn. As such, I am satisfied

that the amended description does not prejudice any party to these proceedings and that it does not have any implications for those who have not been party to the amended description either.

15. In light of all of the above, I am left with no dispute to resolve between any of the appeal parties. The Council now considers the proposal would be lawful and, with the amended description, I have no reason to disagree, having carefully considered all of the evidence provided and the land specified.
16. However, as I stated at the Inquiry, an LDC issued in these terms will not assist the appellant on any planning enforcement matters on land outside of the red line shown on drawing no. 8751-S 01-A (or matters outside of the narrowly described proposal).

Conclusion

17. For the reasons given above I conclude, on the evidence now available, that:
"The hosting of up to 120 wedding ceremonies (not receptions) per year within the listed barn (List Entry Number: 1157561), between the hours of 0800 and 1800, consisting of no more than 1 ceremony per day with no more than 90 guests," would have been lawful on 22 July 2022. The Council's refusal to grant a certificate of lawful use or development was not well-founded and so the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

L Perkins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Rudd

He called

Richard Stacey

Evoke Transport Planning Consultants Ltd

Giles Parker

Sound Barrier Solutions Limited

Christopher White

Laister Planning Limited

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Lucas

He called

Liz Young

Winchester City Council

INTERESTED PARTY:

Ian Capewell

Local resident

DOCUMENT

Appellant witness qualifications

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 July 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 use described in the First Schedule would not constitute a material change of use, where the planning unit is the golf course and country club as a whole.

Signed

L Perkins

INSPECTOR

Date: 28 March 2024

Reference: APP/L1765/X/23/3333171

First Schedule

The hosting of up to 120 wedding ceremonies (not receptions) per year within the listed barn (List Entry Number: 1157561), between the hours of 0800 and 1800, consisting of no more than 1 ceremony per day with no more than 90 guests.

Second Schedule

Land at Skylark Golf and Country Club, Skylark Meadows, Whiteley, Fareham PO15 6RS, edged in red on the plan attached to this certificate.

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: 28 March 2024

by **L Perkins BSc (Hons) DipTP MRTPI**

**Land at: Skylark Golf and Country Club, Skylark Meadows, Whiteley, Fareham
PO15 6RS**

Reference: APP/L1765/X/23/3333171

Scale: Not to scale

