



Appeal Decision

Site visit made on 20 November 2024

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/G5180/X/23/3323690

5 Leaves Green Crescent, Keston, Kent BR2 6DN

- 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 [hereafter referred to as "LDC"].
 - The appeal is made by Mr Callum Harwood against the decision of the Council of the London Borough of Bromley.
 - The application Ref 22/04204/PLUD, dated 25 October 2022 was refused by notice dated 26 April 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as *'It's open land at the rear of the house and we wish to station the caravan. Details have been provided in DAS.'*
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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 single-storey outbuilding which is considered to be lawful.

Application for Costs

2. An application for an award of costs was made by Mr Callum Harwood against the Council of the London Borough of Bromley. This is the subject of a separate decision.

Preliminary Matters

3. The appeal involves the siting of a caravan in the rear garden of a dwellinghouse which, by reason of its dimensions, satisfies the definition of a caravan as described in the Caravan Act 1960 and the Control of Development and Caravan Sites Act 1968. The caravan is to serve as an outbuilding for the enjoyment of the dwellinghouse. The appellant indicates that it will be used as a music/study room and store, although it does have w/c facilities.
4. I have not been provided with any information which suggests that the land upon which the development is sited is anything but residential curtilage benefitting no 5 Leaves Green Crescent. As such, it can be considered under the provisions of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. This concerns buildings incidental to the enjoyment of a dwellinghouse.

5. From my site visit it was clear that the outbuilding satisfies the limitations of provisos (a) to (j) of Class E. Also, by the information submitted it does not contain primary residential accommodation which could not be provided for within the dwellinghouse itself. Moreover, it is not proposed to use the outbuilding as a self-contained residential unit.
6. Given the narrative form of the development's description, as set out on the original application form, I am instead describing the development as the stationing of a caravan to be used as an outbuilding for purposes incidental to the enjoyment of the dwellinghouse. This better targets the development involved, and is consistent with the content of the Design and Access Statement submitted alongside the application.
7. Providing that the outbuilding's use remains on an incidental basis then there will be no reason for the Council to reassess matters.

Main Issue

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

Reasons

9. In an appeal under s195 of the Act against the refusal of a LDC the planning merits and/or impacts of the use applied for do not fall to be considered. Instead, the decision is based strictly on the evidential facts and on relevant planning law. The burden of proof is on the appellant, and I shall reach my decision on the various evidence before me.
10. The matter to be decided upon is whether the development, if carried out at the date of the application ie 25 October 2022, would have been lawful. The determination is to be made against the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO) as subsisted at the time of the application.
11. I note the Council, in its Written Statement has decided not to contest the appeal. In the circumstances, and on the basis of my findings which I have set out, I am satisfied that the outbuilding constitutes permitted development.
12. For the reasons given above I conclude that, on the evidence now available, the Council's refusal to grant a certificate of lawful use or development in respect of the single-storey outbuilding was not well founded, and that the appeal should succeed. I shall exercise the powers transferred to me under section 195(2) of the 1990 Act, as amended.

Timothy C King

INSPECTOR

Lawful Development Certificate

APPEAL REF. APP/R5510/X/24/3343726

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 25 October 2022 the development described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and shown 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 outbuilding described on drawing nos 1350(02)(01) Rev P1 and 1350(00)(01) Rev P2 complies with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Timothy C King

INSPECTOR

Date: **28 November 2024**

13. First Schedule

'Stationing of a caravan to be used as an outbuilding for purposes incidental to the enjoyment of the dwellinghouse'

14. Second Schedule

5 Leaves Green Road Crescent, Keston BR2 6DN

CERTIFICATE OF LAWFULNESS FOR PLANNING PURPOSES

NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended.
2. 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, would not have been liable to enforcement action under section 172 of the 1990 Act as amended on that date.
3. 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 attached to the Lawful Development Certificate dated: **28 November 2024**

by **Timothy C King BA (Hons) MRTPI**

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Scale: Do not scale

