



Appeal Decision

Site visit made on 28 January 2025

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/Q3305/X/23/3333233

Manor Farm, Worth, Wookey, Wells BA5 1LW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Nicola Stevens against Mendip District Council.
 - The application ref 2023/0476 is dated 16 March 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended ('the Act').
 - The use for which a certificate of lawful use or development is sought is Residential curtilage of Manor Farm.
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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 considered to be lawful.

Preliminary Matters

2. The appeal was lodged against the Council's failure to determine the Appellant's application within the statutory time frame. However, in its Statement of Case ('SoC') for the appeal, the Council concluded that a certificate under s192 "should be issued".
3. The description of the development for which a certificate is sought, used in my header, above, is taken from the application form. It is given in answer to the question asking what the proposed use of the land is. However, curtilage is not a use of land. Given this, and as the Appellant's case referred to the use of the caravan for purposes both incidental to and ancillary to that of Manor Farm, I wrote to the parties suggesting the description of development be changed to 'Siting of a caravan for residential purposes ancillary to the use of the dwellinghouse at Manor Farm'. The Appellant agreed, by email dated 3 February 2025, that this would be the correct description and agreed to the change. The Council made no comment on the matter.
4. I have used the revised description in the certificate that is attached to this decision.

Main Issue

5. The main issue is whether a certificate of lawfulness, under section 192 of the Act should be issued.

Reasons

6. Amongst other things, section 192(1)(a) of the 1990 Act provides for a person to make an application to ascertain whether a proposed use of land would be lawful. The onus lies with the Appellant to make her case on the balance of probability.
7. Manor Farm lies on the road through the small settlement of Worth. The farmhouse has a garden to its front and, immediately to its rear, what appeared to be a small yard area. Beyond this, across a small river and an access to the farm and farmhouse, is a larger area of land. Much of this land is taken up by a large pond and it is used as a garden.
8. In February 2023, the Council issued a certificate¹ of lawful existing use of this land for residential use ancillary to Manor Farm, under s191 of the Act. The reason given for the decision, on the certificate, was that the land “has been used as a residential garden in association with Manor Farm, Wells Road on a continual basis for more than 10 years”.
9. In her SoC, the Appellant states that this decision defines the land as being part of the curtilage of the farmhouse. For its part, in its SoC the Council agrees with this, stating that “In issuing the certificate the LPA acknowledged all the land edged in red [comprises] the residential curtilage”. There is nothing in the appeal to lead me to find otherwise.
10. Both parties refer to settled case law, *Uttlesford DC v SSE & White* [1992] JPL 171. This established that the residential use of an outbuilding may be regarded as part and parcel of the use of the dwellinghouse, even if the outbuilding contains the facilities required for use as a self-contained dwellinghouse. It would not, necessarily, result in the creation of a new planning unit separate from the main dwelling.
11. The Appellant proposes to site the caravan on the land for which the certificate of lawfulness I refer to above was issued. It would be occupied by her son and granddaughter. The Appellant would help to look after the latter when her son is at work. The siting of the caravan is described as being “close enough [for its occupants] to share the facilities of Manor Farmhouse to provide most of his family’s meals, laundry and general socialising with the extended family”. Although it would be at the furthest point from the dwellinghouse, this is because it is away from the large pond and, thus, safest for the Appellant’s granddaughter. Furthermore, there is sufficient room for a septic tank and drainage field in that location.
12. Although I deal here with the use of a caravan, I find that the principles in *Uttlesford* apply. In this case, no sub-division of the curtilage is proposed. The caravan would not have a separate postal address and, save for the provision of the new septic tank, it would use Manor Farm’s services. The case is also based on there being no separate tenancy agreement and that it would not be registered as a separate unit of accommodation for Council Tax purposes.
13. The evidence is sufficient to show that, on the balance of probability, the caravan would be used for purposes ancillary to Manor Farm. Of course, should this not be

¹ Council reference 2022/1819/CLE

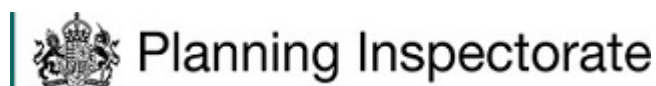
the case, allowing this appeal does not fetter the Council from using its enforcement powers to address any such breach of planning control in future.

Conclusion

14. For the reasons given above I conclude, on the evidence now available, that the Council's failure to grant a certificate of lawful use in respect of change of use of building from incidental to ancillary residential use 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.

Roy Curnow

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 16 March 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black 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 use of the caravan in the manner set out in the application would be ancillary to the use of Manor Farm, and would be lawful.

Signed

R Curnow

Inspector

Date: 10 February 2025

Reference: APP/Q3305/X/23/3333233

First Schedule

Siting of a caravan for residential purposes ancillary to the use of the dwellinghouse at Manor Farm

Second Schedule

Land at Manor Farm, Worth, Wells BA5 1LW

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 10 February 2025

by R Curnow

Land at: Manor Farm Worth, WELLS, BA5 1LW

Reference: APP/Q3305/X/23/3333233

Scale: Not to Scale

