



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/K0235/X/23/3325639

Courtyard Barn, The Drive, Oakley, Bedford MK43 7ST

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr George Powell against the decision of Bedford Borough Council.
 - The application ref 23/00750/LDP, dated 4 April 2023, was refused by notice dated 31 May 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 is sought is 'The siting of a caravan for ancillary use, within a defined planning unit, does not amount to a material change of use of land and thus no development as defined by S55(1) of the 1990 Act will take place.'
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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 description in the banner heading above is taken from the appellant's application form. It is not the same as that used by the Council in their decision notice however, under section 192 there is no implied power to modify the description of the proposed development. Whilst the description includes superfluous wording, it is possible, based on the given description and supporting information, to understand the nature of the application and proposed development.
3. The application sought is a certificate of lawfulness for a proposed development. The purpose of an application made under section 192 is to find out whether proposed development, as described in the application form and shown on the drawings, would be lawful if instituted or begun at the time of the application, it is not the equivalent, in law, of a planning permission. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities.
4. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the parties have submitted sufficient evidence to understand the nature of the site and the proposed development given the dispute.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

6. There is no dispute that the proposed caravan, meets the definition of a caravan within section 29 of the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968, nor that the proposed caravan would be sited within the curtilage of the dwellinghouse. I have no reason to disagree with these conclusions.
7. In broad terms the Council's case is that it is not considered that the proposed caravan would be incidental to the dwelling due to the level of habitable accommodation proposed in comparison to the dwelling. And that the caravan would become the main unit of accommodation and the dwelling incidental to it.
8. The appellant stated that the existing dwelling is around 54m² and consists of one bedroom, a bathroom and open plan/kitchen living area. The proposed caravan is around 69m² plus a deck area and would include a bedroom, shower room, storage space and living area. The appellant explained that the size of the caravan is necessary to accommodate Accessible Space Standards - B Regs M4 (2) and will provide sufficient space in which Mrs Gold can sleep and wash.
9. Both parties referred to the term 'incidental.' However, it is an established principle that something which is 'incidental' cannot itself be a dwellinghouse; nor, therefore, can it be something for the provision of a primary dwellinghouse purpose, such as a bedroom or kitchen.
10. The accommodation proposed in this case (bedroom, bathroom, and lounge area) are not therefore incidental residential uses, but part and parcel of the normal facilities of the dwelling. There are no cooking facilities proposed, albeit it would not be difficult to provide them. However, as the Inspector in the Heathfield House decision¹ identified, a caravan will typically be equipped with all the facilities required for independent day-to-day living, but it does not automatically follow that once occupied there must be a material change of use simply because primary living accommodation is involved. Much depends on how the caravan would be used.
11. The stationing of caravans is generally held to be a use of land. Whether the use amounts to a material change of use and therefore development for which planning permission is necessary, requires an understanding of the planning unit. If the use of the planning unit would not change because of the development, and it remains a single planning unit, there would be no material change in the use.
12. The proposed caravan would be sited on land adjacent to the dwelling which the Council accept is residential garden and forms part of the curtilage. The caravan would therefore be within the planning unit which is in residential use.
13. It is stated that occupants will use the living spaces of both the dwelling and caravan and that the caravan will not function as a separate dwelling but will provide additional living space for both Mr Powell and Mrs Gold, with a bedroom and bathroom that they can share. It is also stated that they will be reliant upon the dwelling for essential facilities, services and amenities including laundry and cooking, with all meals being prepared and taken in the dwelling, and the caravan will not have separate access, utilities, or services.

¹ APP/A1530/X/17/3177321

14. The House of Commons debate referred to by the parties is not caselaw and serves no more than to reinforce the factors that might be considered and that it is a matter of fact and degree judgement in each case.
15. I acknowledge the Council's concerns about size, but whilst this is a relevant consideration it is not determinative. Based on the way the appellant describes the caravan being used, all that would change in practice would be that the appellant and Mrs Gold would sleep, wash, and perhaps relax in the caravan, but they would still be reliant on the facilities in the dwelling. Visiting family would stay in the dwelling to provide care, assistance, and support to Mrs Gold as needed, but the family would still occupy the land as a whole as a single household.
16. As a matter of fact and degree the land would remain a single planning unit. The use of the planning unit is now residential. The use of the caravan would be part and parcel of that residential use of the same planning unit. No new planning unit would be created, and the use of the existing planning unit would not change. Therefore, there would be no material change of use arising from the development. The proposal does not therefore amount to development as defined in section 55(1) of the Act for which planning permission is required.

Other matters

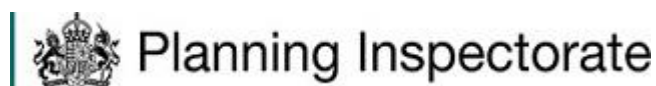
17. The appeal decisions provided by the Council relate to a proposed extension to the dwelling and have no bearing on my assessment which rests on the facts of the case and the interpretation of relevant law.

Conclusion

18. 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 *'The siting of a caravan for ancillary use, within a defined planning unit, does not amount to a material change of use of land and thus no development as defined by S55(1) of the 1990 Act will take place'* 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).

Felicity Thompson

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 April 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 the caravan and its use as described in the submissions accompanying the application, would be part and parcel of the residential use within the same planning unit and would not amount to a material change in the use of the land. It would not therefore fall within the meaning of development set out in section 55(1) of the Town and Country Planning Act 1990, as amended, and no planning permission is required.

Signed

Felicity Thompson

Inspector

Date: 14 February 2025

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First Schedule

The siting of a caravan for ancillary use, within a defined planning unit, does not amount to a material change of use of land and thus no development as defined by S55(1) of the 1990 Act will take place.

Second Schedule

Land at Courtyard Barn, The Drive, Oakley, Bedford MK43 7ST

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: 14 February 2025

by Felicity Thompson

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Scale: Not to Scale

