



Appeal Decision

Site visit made on 10 February 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/D3640/X/23/3327050

Albury Cottage, Gracious Pond Road, Chobham, Woking GU24 8HJ

- 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 and Mrs Joe Dunphy against the decision of Surrey Heath Borough Council.
 - The application ref 21/1022/CES, dated 13 September 2021, was refused by notice dated 12 September 2022.
 - The application was made under section 191(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 siting of mobile home for purposes ancillary to the dwellinghouse.
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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 existing use which is found to be lawful.

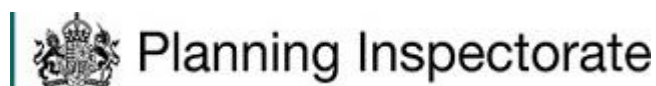
Reasons

2. Section 191(2)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act") sets out that a use is lawful at any time if no enforcement action may be taken in respect of it (whether because it did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason). The burden is on the appellant to prove their case to the standard of the balance of probabilities. If their evidence is sufficiently clear and precise and there is no evidence to contradict it, or make it less than probable, then their evidence should be accepted and a certificate of lawful use or development (LDC) should be issued.
3. The main issue in this case is whether the siting of a mobile home for purposes ancillary to the dwellinghouse is development as defined within the 1990 Act. The unit of accommodation has been sited within the garden of Albury Cottage and the Council does not dispute that no material change of use has resulted from the way the accommodation has been used. Rather, the dispute is whether the siting of the mobile home has also involved operational development requiring planning permission.
4. The appellant has explained that the mobile home is a standard twin-unit caravan by 'Omar Park & Leisure Homes Ltd'. It was purchased from a friend and moved to the site in two sections where it was assembled. The finished unit is said to be within the size limitations for a 'twin-unit' caravan set out in the Caravan Sites Act 1968 ("the 1968 Act").

5. The Council suggests that the mobile home is constructed of similar materials to any other wood-framed house, but has provided no substantive evidence to support that claim. Given that it has a visual appearance of a caravan, there is, therefore, no reason to doubt the appellant's evidence that suggests that it is, in fact, a common, pre-fabricated model of mobile home.
6. In any case, the Council also confirms that the mobile home is constructed so as to be capable of being a caravan within the meaning of the 1968 Act and the Caravan Sites and Control of Development Act 1960. It is clearly designed (and used) for human habitation. However, while it does not dispute that the size is within the statutory limits, the Council also suggests that it is big enough to be a building, and has become permanent such that it should be considered a building operation.
7. I was able to confirm at my site visit that the mobile home has towing bars, a frame and wheels. It is not attached to the ground but rests on a concrete hardstanding. The mobile home would be of significant weight, but that would be no different to any other twin-unit caravan.
8. A brick wall has been erected around the bottom of the unit extending from the concrete hardstanding to the bottom of the mobile home. Brick/paved steps have also been built adjacent to the front door. I saw that neither of these structures appear to be attached to the mobile home itself. While it would be necessary for at least some of the wall to be demolished in order to move the mobile home, that would not be a difficult or time-consuming operation given its apparent light-weight construction. After that had been done, there is no obvious reason that the caravan could not be moved.
9. Therefore, I find that the mobile home remains an entirely free-standing, movable entity with no physical attachment to the ground or surrounding structures. While there is no current intention to move it, it falls within the definition of a caravan and is not a building operation within the meaning of the 1990 Act. As there has been no material change of use, its siting has not involved development.
10. The appeal relates to an application seeking to establish that the siting of the mobile home is lawful. It does not seek clarification as to whether, for example, the concrete hardstanding, wall and steps are also lawful. Those latter questions are unimportant to my decision as they are separate to the mobile home itself and I make no finding in that regard.
11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the siting of a mobile home for purposes ancillary to the dwellinghouse is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act.

M Bale

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 13 September 2021 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 structure falls within the statutory definition of a caravan, the siting of which, and use in connection with Albury Cottage has not involved development within the meaning of the Town and Country Planning Act 1990 (as amended).

Signed

M Bale

INSPECTOR

Date: 24 February 2025

Reference: APP/D3640/X/23/3327050

First Schedule

Siting of mobile home for purposes ancillary to the dwellinghouse.

Second Schedule

Land at Albury Cottage, Gracious Pond Road, Chobham, Woking GU24 8HJ

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: **24 February 2025**

by **M Bale**

Land at: Albury Cottage, Gracious Pond Road, Chobham, Woking, GU24 8HJ

Reference: APP/D3640/X/23/3327050

Scale: Not to Scale

