
Appeal Decision

Site visit made on 7 October 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Appeal Ref: APP/R3650/X/24/3343161

15 Crondal Lane, Farnham, Surrey, GU9 7BG

- 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 Mrs Philly Hook against the decision of Waverley Borough Council.
 - The application ref WA/2024/00285, dated 22 January 2024, was refused by notice dated 8 April 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is 'Stationing of shipping container within rear garden of site edged red on accompanying plan'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. That application is the subject of a separate decision.

Preliminary Matters

3. The appellant submitted late evidence which was accepted and the Council was given an opportunity for comment on this but no submissions were made. Copies of case law judgments and an appeal decision which were referenced in written representations were also provided to the parties for comment.
4. Since s195(2) of the Town and Country Planning Act 1990 (1990 Act) refers to whether or not the Council's refusal is well-founded, rather than the reasons for the decision, it is appropriate that I consider new evidence submitted with the appeal.

Validity of Decision Notice

5. The appellant contends that the Council failed to determine the application on the basis that the decision notice issued was invalid due to this not including a plan which the appellant submits is a 'fundamental part' of what is certified and that the notice should be clear and unambiguous of itself and not require cross reference to application documents.
6. The decision notice properly identified the property by reference to its postal address and so was not ambiguous as to the property in question. Article 39(13) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) includes no requirement for a plan in respect of a refusal notice. Article 39(14) of the DMPO states that any certificate issued under s191 or

s192 of the 1990 Act must be substantially in the form prescribed in Schedule 8 of the DMPO which includes cross-reference to a plan. However, since the decision notice in this case did not entail the granting of a LDC since it was a refusal, there was no requirement to include a plan. The decision notice issued was not invalid.

Main Issue

7. The main issue is whether the Council's decision to refuse to grant a lawful development certificate (LDC) was well-founded. This will turn on whether the appeal development was lawful as at the date of the LDC application. Planning merits are not relevant and the onus is on the appellant to make their case on the balance of probability.

Reasons

Legislation and case law

8. Section 191(2) of the 1990 Act states that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission, because the time for enforcement action has expired, or for any other reason); and (b) they do not constitute a contravention of the requirements of an enforcement notice.
9. Section 55(1) of the 1990 Act sets out the meaning of development as '*the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land*'. The question here is whether or not the proposal constitutes operational development.
10. Connected to whether or not a building operation has occurred, section 336(1) of the 1990 Act states that a "building" includes "any structure or erection". The Courts have held that regard must be had to size, permanence and degree of physical attachment in determining whether an item is a building. No single factor is decisive in the assessment, which is a matter of fact and degree in each case.
11. The parties dispute whether or not the proposal represents development requiring planning permission. If I find that the appeal proposal does represent operational development, I will need to then consider whether or not it represents permitted development (PD) under Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Class E). Class E permits the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse, subject to various conditions and limitations contained within that class.

Whether or not operational development

12. The appeal proposal is for the siting of a shipping container within the rear garden of the host property for purposes ancillary to the residential use of the appeal property. The plans submitted with the application indicated a shipping container measuring some 12.7m in length, 3m in width and 3.1m in height.
13. With regard to size, while substantial, the appellant has indicated that the shipping container could be brought onto site in one piece. While I have only limited information in support of this, shipping containers of a similar size are frequently moved in one piece and I note the comparison with the maximum size for a

caravan also¹. As such, the proposed container is not so large such that it could only realistically be constructed on site. I note also that even if this were constructed on site from a flat pack, this would likely be a relatively swift and simple process by a small number of people.

14. In terms of affixation, no permanent foundation or hardstanding is proposed and it is not indicated that the shipping container would be connected to services. However, it would be held in place by its own very significant weight. The appellant contends that this is the least extensive form of annexation, making comparison to the weight of a twin-unit caravan. However, in my view the extent of affixation in this case would not be insignificant since the weight of the container is such that specialist equipment would be needed to lift it. This can be contrasted with an object which might be held to the ground by its own weight but could be moved without specialist equipment.
15. With regard to permanence, this does not connote whether or not a state of affairs is everlasting and is construed in terms of significance in the planning context. I recognise that shipping containers are designed to be moved around and emptied relatively swiftly and easily. However, there is no indication here to suggest that the proposed shipping container would be moved around with any regularity and the size of the container relative to the size of the garden renders this unlikely.
16. The proposed container could be moved in one piece as opposed to following a process of it being taken apart into numerous pieces. It is highly probable though that the process of moving the shipping container would involve specialist equipment and, in the absence of substantive evidence to the contrary, it seems it would not be a straightforward process undertaken by a person without specialist knowledge. Since much of the rear garden at the appeal property is grassed, it is likely that the proposed container would sink to a degree into the ground, further complicating the moving process.
17. Counsel's Opinion submitted by the appellant references various case law² seeking to draw parallels between circumstances in those cases and the appeal development. However, as the Opinion recognises, whether or not operational development has occurred is a matter of judgment³. As such, the fact that the Courts have held that sizeable objects do not necessarily represent operational development does not mean that the sizeable shipping container proposed does not constitute operational development.
18. Taken together, I find as a matter of fact and degree that the assessment of the appeal proposal as against the case law tests stated means that it would amount to operational development.

Appeal site LDCs

19. The LPA recently granted a LDC⁴ in respect of the appeal site certifying that siting of a shipping container adapted for human habitation would meet with the statutory

¹ Per Section 13(1) of the Caravan Sites Act 1968

² *Skerritts of Nottingham Ltd v SSETR (No. 2)* [2002] EWCA Civ 5569; *R (oao Save the Woolley Valley Action Group) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin); *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385; *Barvis Limited SSE and Anor* [171] P&CR 1710; *Dill v SSCLG & Stratford-on-Avon DC* [2020] UKSC 20; *Cheshire CC v Woodward* [1962] 2 QB 126; *R (oao Hall Hunter Partnership) v FSS & Waverley BC* [2006] EWHC 3482 (Admin)

³ Similarly, the newspaper article written by Jeremy Clarkson states that shipping containers 'usually' will not require planning permission

⁴ Ref: WA/2024/01785 (2024 LDC)

definition of a caravan⁵ and would not represent operational development. A LDC was previously also granted at appeal for the siting of a caravan on the appeal site⁶.

20. The shipping container proposed in this case would not be designed or adapted for human habitation; reference to the proposed use being ancillary to residential use does not indicate adaptation for human habitation since various ancillary residential uses such as storage would not require this. The proposed shipping container would not fall within the statutory definition of a caravan even if it is capable of being adapted for human habitation.
21. As such, and while I note the appellant's concerns in relation to consistency of decision making, plainly the appeal proposal is not therefore covered by either of these previous LDCs.

Other decisions

22. Both parties cite appeal decisions⁷ where differing conclusions have been reached on whether or not a shipping container represents a building. These cases are though highly fact specific and so it is unsurprising that different decisions have been reached. For example, the Inspector in the MKM Building Supplies appeal found shipping containers at a self-storage site did not represent operational development. However, in that case the site was fully hard surfaced and the Inspector was satisfied on the available evidence that the containers could be removed quickly and easily. Plainly then there are likely to be differences related to the likelihood and ease of moving containers on storage and agricultural sites as compared to a container sited within a modest-sized residential garden.
23. While I am not bound by the decisions of the Council or other local planning authorities, again those cited indicate how factual circumstances can properly lead to a different conclusion. For example, a recent LDC granted for a shipping container (which did not meet with the statutory caravan definition) at Lower Punchbowl Farm⁸ can be distinguished from the appeal proposal on the basis that there was found to be a likelihood of the container being moved around the site fairly often due to its proposed use in connection with agricultural activities including haymaking and due to the presence of an access track on site.
24. As regards the Wrotham Hill Cottage decision⁹ and Orton Road decision¹⁰, it seems from the location plans submitted that these appeal sites were far larger than that in this case, with a potential consequential impact as regarding the ease and likelihood of the shipping container being moved.
25. For the reasons stated, I find as a matter of fact and degree on the available evidence that the proposed shipping container would represent operational development in respect of which planning permission would be required.

⁵ As set out in Section 29(1) of the Caravan Sites and Control of Development Act 1960 and Section 13(1) of the Caravan Sites Act 1968

⁶ APP/R3650/X/16/3161457

⁷ APP/V0728/W/23/3314720 - MKM Building Supplies; APP/Z5630/X/21/3269510 – 422A Kingston Road; APP/M2270/C/20/3246942 – Oakland's Farm; APP/R3650/C/17/3172490 – 1 Glen Road; Appeal Ref: 1814012

⁸ Ref: WA/2024/00634

⁹ Ref: WA/2024/01129

¹⁰ Ref: PAP/2024/0107

Whether or not PD under Class E

26. The application form states that the proposed shipping container would be used for purposes ancillary to the residential use of the host property. There is though a lack of precision as to the intended use such as to enable me to assess whether the proposed shipping container would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.
27. Further, there is a lack of detailed information in relation to the proposed positioning of the shipping container such as to enable me to properly assess its height for compliance with paragraph E.1 of Class E (albeit that since the container does not have a pitched roof, the overall height limitation would be breached in any event, as would the eaves height limitation).
28. I find then that the appeal proposal would not be PD under Class E and would require a specific grant of planning permission. It would not be lawful for the reasons explained.

Conclusion

29. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for 'Stationing of shipping container within rear garden of site edged red on accompanying plan' is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

V Bond

INSPECTOR