



Appeal Decisions

Site visit made on 4 February 2026

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2026

Appeal Ref: APP/R3650/X/24/3345206

Wrotham Hill Cottage, Wrotham Hill, Dunsfold, Nr Godalming, Surrey GU8 4PA

- 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 Grant Marshall against the decision of Waverley Borough Council.
- The application ref WA/2023/02556, dated 23 November 2023, was refused by notice dated 7 February 2024.
- 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 proposed siting of a shipping container for use ancillary to the lawful residential use of the site.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The description of development has been taken from the appeal form, where “a precise description of the proposed or existing use, operation or activity as outlined in the application in respect of which a certificate is sought” is requested.
2. Reference has been made to the potential for the proposed container to be fitted out as a caravan. The term caravan is defined by the Caravan Sites and Control of Development Act 1960 (CSDPA60) and Caravan Sites Act 1968 (CSA68) for planning purposes. Considerations as to whether a caravan is lawful may differ from a shipping container. In this case, the description of development is clear that the proposal is for a shipping container. The use of the structure may, therefore, be flexible as a caravan or for other uses of shipping containers, such as storage. I will consider the appeal on that basis.

Main Issue

3. The main issue in an appeal against refusal of an LDC is whether the decision of the Council was well-founded. In this case, the Council have suggested that the proposal would comprise development under section 55(1) of the Town and Country Planning Act 1990 as amended (the Act). As a result, the main issue in this case is whether the decision of the Council was well-founded in relation to whether the shipping container comprises development.

Reasons

4. In the case of an application for an LDC, the onus is on the appellant to demonstrate the lawfulness of the development. The test of the evidence is on the balance of probability.
5. The appellant suggests that the siting of a shipping container is a use of land as the container would not comprise a building. There are three primary factors in

defining what is a building as set out in the judgements of *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385, endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR & Harrow LBC (No.2)* [2000] EWHC Civ 5569 [2000] JPL 1025. These are size, permanence and physical attachment. These are considered as a matter of fact and degree and none of the factors are necessarily decisive. It is possible for one to be given greater weight than the others.

6. The shipping container would be of a size sufficient that it could be considered a building.
7. Shipping containers are designed and used as mobile objects for easy transportation. They are frequently used in transporting their contents and can easily be moved from place to place with the right equipment without being dismantled.
8. Nevertheless, I need to consider the particular circumstances of this case. It appears that the container is intended to be placed on this site but it is not clear where exactly it is intended to be located, nor does it specify whether it would be there for a finite period. Its purpose appears to be flexible, to allow use as a caravan or for other purposes as set out in preliminary matters. It is unclear whether it is intended to be moved around or away from the site. It is unclear how movement would be practically achieved given the soft grass surface on which it is likely to be placed, where it is likely to sink into the ground, and the effects of moving heavy equipment around the garden. In the circumstances, it is reasonable to assume that it would be permanently located in one location on the site. On that basis, it would have a high degree of permanence.
9. The container is intended to be placed on the existing ground, which comprises a grass surface. It would not be attached to the ground but would remain in place solely due to its considerable weight.
10. Taking account of these factors and on the balance of probability, I conclude that the proposed container would comprise a building. As a result, it would comprise development as defined by section 55 of the Act.
11. Section 55(2) of the Act sets out a number of operations and uses of land that are not taken to involve development of land. This includes, at paragraph 55(2)(d), the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such. In order to be lawful, therefore, the use of any caravan or shipping container would need to be incidental to the enjoyment of the dwellinghouse. To be incidental, the use of the shipping container or caravan could not provide primary living accommodation. In this case, the drawings show the container to be laid out with kitchen area, shower room, bed and sofas. This indicates it would be more than incidental such that it would not comply with paragraph 55(2)(d) of the Act.
12. I was able to see another container located on the site during my visit. Its location appeared difficult to access to move or remove the container such that it appeared incapable of movement. It appeared to be used for permanent storage in relation to the property and was of a size that could be considered a building. It is not for me to determine whether or not it is a building, but from what I saw it seems likely that it comprises a building and this supports my conclusion regarding the proposed shipping container.

13. My attention has been drawn to other cases where shipping containers have been concluded not to comprise buildings, including a Valuation Office Agency decision under the Community Infrastructure Levy Regulations in relation to the change of use of land to create a commercial storage facility. I acknowledge that it may be possible to conclude a container would not be a building, subject to the facts of the case. This is consistent with the article from The Times written by Jeremy Clarkson. In the particular circumstances of this case and for the reasons given, I am satisfied that this container would be a building.
14. My attention has been drawn to an appeal decision¹ that related to an appeal for a shipping container on part of this site. It was dismissed. The Inspector concluded that the container proposed in that case would be a building. I note that the appellant suggests the decision is being challenged, although I have limited details of that. I have taken it into account in coming to my decision.
15. It is suggested that reference made in that decision to the topography of another site owned or operated by Mr Domm is unclear. However, the Inspector had referred to the site at Wrotham Hill Cottage being wet in winter such that a container would sink into the ground by reason of its weight. He is indicating this may contrast with Mr Domm's site, given what he was told in a letter from Mr Domm that his site "is well drained throughout and the ground is relatively hard". Whilst he may not have visited that site, he was able to rely on the information presented to him.
16. My attention has also been drawn to an LDC issued by the Council under reference WA/2024/01129 in relation to a self-contained container for ancillary residential use was covered by a previous LDC, reference WA/2023/01923, for the siting of a caravan ancillary to the residential property. The appellant describes this as a "Caravan Compliant Container". The Council determined to issue an LDC based on the evidence submitted to them in that case. It appears that the container in that case was accepted to be a caravan, which differs from this case. I have considered the proposal as set out in the preliminary matters above. The Officer Report into that decision has been provided and I have taken it into account in coming to my decision.
17. Whilst I have taken that appeal decision and LDC reference WA/2024/01129 into account, I need to come to a decision on fact and degree in relation to the individual circumstances and evidence provided in this case.
18. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the siting of a shipping container 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.

Formal Decision

19. The appeal is dismissed.

AJ Steen

INSPECTOR

¹ Appeal decision reference APP/R3650/X/23/3333287