



Appeal Decision

by **John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 June 2021

Appeal Ref: APP/C1570/X/21/3269440

11 Bannister Green Villas, Felsted, Dunmow CM6 3NN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Jane Charlton against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0202/CLP, dated 21 January 2021, was refused by notice dated 4 February 2021.
 - 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 an LDC is sought is 'use of the land for siting a mobile home for use ancillary to the main dwelling'.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is considered to be lawful.

Reasons

2. 11 Bannister Green Villas is a two-storey semi-detached dwelling with a long, narrow rear garden and is the home of the Appellant. The mobile home would be sited in the rear garden and would be, as stated by the Appellant, a "...living space for my father so that I may provide suitable eldercare for him". The mobile home would be a twin unit caravan.
3. The main issue is whether use of the land for siting a mobile home for use ancillary to the main dwelling would be lawful.
4. Section 13(1) of the Caravan Sites Act 1968 (CSA) defines a twin unit caravan as a structure designed or adapted for human habitation which is composed of not more than two sections separately constructed and designed to be assembled on site, and which is, when assembled, physically capable of being moved by road from one place to another, and Section 13(2) sets out size limits for twin unit caravans. From information submitted with the appeal the mobile home would satisfy the mobility and construction criteria of Section 13(1), and would satisfy the size limitations of Section 13(2). If it did not, after being established on site, the Council could take enforcement action against it. The siting of the mobile home would not therefore constitute operational development for the purposes of establishing whether planning permission is required.
5. The Council has accepted, in their reason for refusal of the application, that the mobile home "...is considered ancillary due to its size and relationship to the dwellinghouse". Taking into account, also, the relationship between father and

daughter, the limited accommodation of the mobile home, its functional dependency on services from the dwelling, and its subordination in scale, the mobile home would indeed be ancillary to the main dwelling. If the mobile home, after being established on site, was not used for the stated ancillary purpose the Council could take enforcement action against it. The proposed siting of the mobile home would not therefore constitute a material change in the use of the land for the purposes of establishing whether planning permission is required.

6. The siting of the mobile home in the rear garden of 11 Bannister Green Villas would not be operational development and would not result in a material change in the use of the land. The siting of the mobile home would not, with regard to Section 55 of the Act, be 'development' and, with regard to Section 57, planning permission is not required.

7. The Council considered the proposed mobile home against the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO), specifically Class E of Part 1 of Schedule 2 which states that provision within the curtilage of the dwellinghouse of a building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development. But the GPDO, as set out in Article 3(1), grants planning permission for classes of development described as permitted development in Schedule 2. The provisions of the GPDO are not applicable to development or uses of land that do not require the grant of planning permission, and the Council were wrong to consider them.

8. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of the land for siting a mobile home for use ancillary to the main dwelling at 11 Bannister Green Villas, Felsted, Dunmow was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

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 21 January 2021 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Planning permission is not required for the use which would be lawful.

Signed

John Braithwaite

Inspector

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First Schedule

Use of the land for siting a mobile home for use ancillary to the main dwelling

Second Schedule

Land at 11 Bannister Green Villas, Felsted, Dunmow CM6 3NN

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 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 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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: 03 June 2021

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Scale: not to scale

