



Appeal Decision

Site visit made on 28 January 2019

by Mr K L Williams BA MA MRTPI

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

Decision date: 08 February 2019

Appeal Ref: APP/K2230/X/18/3212570

Leighton, Sole Street, Cobham, Gravesend, DA13 0XZ

- 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 Mr Bal Mattu against the decision of Gravesend Borough Council.
 - The application ref: 20160760 and dated 3 August 2016, was refused by notice dated 27 February 2017.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The proposed use for which a certificate of lawful use or development is sought is the stationing within the residential curtilage of a mobile home as a granny annexe incidental to the main dwelling.
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Decision

1. The appeal is allowed and attached to this decision is a Lawful Development Certificate describing the use which is considered to be lawful.

Main Issue

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

Reasons

3. Planning merits are not relevant in this case. They are not to be considered in an appeal under section 195 of the Act, concerning an application for a lawful development certificate (LDC). My decision rests on the facts of the case, relevant planning law and judicial authority. The burden of proof rests with the appellant and the appropriate test of evidence is the balance of probabilities.
4. Leighton is a large, L-shaped, detached chalet-bungalow standing in an extensive plot on the east side of Sole Street. The dwelling and its plot are in single occupation and form a planning unit. Drawing LS01 Rev 4 is dated 8 November 2016 and shows the proposed mobile home sited close to the rear wall of the dwelling. It would measure 6 metres by 12 metres and about 2.7 metres to the eaves. A layout plan shows the mobile home divided into two main rooms providing a bedroom and a lounge. There would also be a hall and bathroom. The Council refused to issue an LDC having regard to the size of the mobile home, the facilities it would contain, its connections to services and its

propensity to provide independent living accommodation. It concluded that this would amount to development and would not be permitted development.

5. The mobile home would be within the curtilage of Leighton. Section 29(1) of the Caravan Sites and Control of Development Act, 1960 defines a caravan as "*..any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or being transported on a motor vehicle or trailer)...*" It goes on to list exclusions which are not relevant in this appeal. While it would be of a substantial size the mobile home would be within the size limits for a caravan set out in section 13 of the Caravan Sites Act, 1968. It would be transported to the site as a complete unit and craned into place. This would not preclude it from the being a caravan. The mobile home would rest on jack legs and on padstones. Nevertheless, it would remain capable of being moved in a similar manner to its installation. It is likely that connections to services would be capable of being removed without the need for substantial works. The proposal would not amount to operational development.
6. The judgement in *Uttlesford DC v SSE and White [1992]* concerned the use of the garage of a house to provide accommodation for an elderly relative. The accommodation was sufficient for independent living but it was intended to function as an annexe, with the occupier sharing living activity with the family in the main dwelling. It was concluded that those circumstances need not result in a separate planning unit being created.
7. The situation would be similar in this case. The mobile home would be sited close to the house. It would share the utility services of Leighton and would have no separate curtilage. The mobile home would have many of the facilities required for independent living. However, it would be occupied by elderly parents of the occupiers of the dwelling. They are said to require care and assistance while retaining a degree of independence. They would share the accommodation of the main house for their meals and for family socialising. The position could change if the mobile home was to be used as a separate dwelling rather than being used as part of a single family occupation. Nevertheless, as a matter of fact and degree, I find that the stationing of the mobile home as proposed would not result in the creation of a separate planning unit. The proposal would not lead to a material change of use of the land.
8. The Council cites several other dismissed appeals. In APP/C3620/A/99/3297 the Inspector found that despite the washing of clothes in the main dwelling, and having regard to other matters including its location, a caravan was being used independently. Unlike this case, decision APP/E2205/A/08/2071417 concerned a refusal of planning permission. The Inspector had regard to size and found that a proposed mobile home should not be regarded as an annexe but was tantamount to a new dwelling. In APP/A2280/C/06/2024147 the Inspector reviewed the extensive range of accommodation in a caravan and took into account that meals would be taken in the main house. He found that the use would not be incidental in the terms of section 55 of the Act as amended. I take these decisions into account but it is not clear from the evidence submitted that the circumstances and evidential considerations in those cases were precisely the same as those in this appeal. I have had regard to relevant case law and have set out above my reasoning for concluding that this proposal would not amount to operational development or to a material

change of use. My conclusions are consistent with that of the Inspector in appeal decision APP/K2230/X/13/2190398. It also concerned the stationing of a mobile home in a rear garden for use as a granny annex.

Other Matters

9. As I set out above, planning merits have no relevance in this appeal. I have not given weight to representations concerning the planning merits of the proposed mobile home.

Conclusion

10. My conclusions do not rest on the proposed use being an incidental use. I shall therefore omit the term incidental from the LDC. Having regard to the above and to all other matters raised the Council's decision not to issue an LDC was not well-founded. The appeal should succeed and an LDC should be issued under section 195(2) of the Act as amended.

K Williams

INSPECTOR



The Planning Inspectorate

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 3 August 2016 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, 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 stationing of a mobile home on the land would not amount to development.

Signed

K Williams

INSPECTOR

Date: 08 February 2019

Reference: APP/K2230/X/18/3212570

First Schedule

The stationing within the residential curtilage in the location shown coloured in black on the plan attached to this certificate of a mobile home for use as a granny annexe.

Second Schedule

Land at Leighton, Sole Street, Cobham, Gravesend, DA13 0XZ

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: 08 February 2019

by Mr K L Williams BA MA MRTPI

Land at: Sole Street, Cobham, Gravesend, DA13 0XZ

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