
Appeal Decision

Site visit made on 16 December 2013

by A R Hammond MA MSc CEng MIET MRTPI

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

Decision date: 8 January 2014

Appeal Ref: APP/Z2830/X/13/2190381
60 Waynflete Avenue, Brackley NN13 6AF.

- 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 H Jones against the decision of South Northamptonshire District Council.
 - The application Ref S/2012/1286/LDP, dated 24 September 2012, was refused by notice dated 13 December 2012.
 - 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 siting of a caravan in the rear garden of the semi-detached dwelling, No.60 Waynflete Avenue, as incidental accommodation to the main property.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

Application for costs

2. At the Hearing an application for costs was made by Mr H Jones against South Northamptonshire District Council. This application is the subject of a separate Decision.

Reasons

3. The application and accompanying statement made clear that the application is for the siting of a caravan as incidental accommodation.
4. The Caravan Sites and Control of Development Act 1960 defines "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 by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.
5. The Council contend that it has not been demonstrated that the caravan would not be a permanent structure by reason of insufficient information having been provided in respect of its connection to the foul sewer.
6. However attachment to services such as sewerage would invariably be capable of detachment in a matter of minutes and such attachments would not, in the

- normal course of events, render the structure incapable of being moved from one place to another. Connection to the main sewer would not in itself, therefore, result in a caravan becoming a permanent structure requiring compliance with Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 (GPDO).
7. In any event the Council has no power to modify the description in a section 192 application or cast doubt on what is applied for. What is sought is a certificate of lawful use or development for siting of a caravan. It is appropriate, therefore, for the appeal to be determined on the basis that the statutory definition is met.
 8. The issue to be determined in this case is solely whether the caravan would be used for a purpose incidental to the enjoyment of the dwelling house and therefore would not require separate planning permission.
 9. The Council contend that the caravan would not be incidental to the enjoyment of the dwelling house in that it would constitute a separate self contained unit of accommodation.
 10. However, what is proposed is for the use of the caravan as ancillary sleeping accommodation for the appellant's daughter and son-in-law and their baby. The caravan would not have laundry facilities or a fully functioning kitchen and would not have all the facilities necessary for independent day-to-day living. The occupiers would be reliant on facilities available in the main dwelling. Indeed it is stated that the occupiers would cook and eat with the appellant in the dwelling house.
 11. On the basis of the described use, the siting of a caravan in the rear garden of the dwelling would be incidental to the enjoyment of the dwelling house. The commentary at 3B-2088.2 of the Encyclopaedia of Planning Law and Practice states that use of a caravan within the curtilage for purposes incidental to the enjoyment of the dwellinghouse falls within the primary use of the dwellinghouse, and does not require separate planning permission. This use is therefore not included in those for which permission is granted by Class A of Part 5 of Schedule 2 of the GPDO.
 12. Whilst few works would be needed to facilitate the use of the proposed caravan for independent day-to-day living, if such works were carried out and the caravan so used, a lawful development certificate in the terms applied for would be of no benefit to the appellant.
 13. It is necessary to determine the appeal on the basis of the claimed use and for the above reasons, and having regard to all other material matters raised, the Council's refusal to grant an LDC for the siting of a caravan in the rear garden of the semi-detached dwelling, No.60 Waynflete Avenue, as incidental accommodation to the main property was not well founded. The appeal succeeds and I shall exercise the powers transferred to me in section 195(2) of the Act.

Andrew Hammond

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 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 24 September 2012 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in blue 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 use would not be development by virtue of section 55(2)(d) of the Act

Signed

Andrew Hammond
INSPECTOR

Date 08.01.2014

Reference: APP/Z2830/X/13/2190381

First Schedule

The siting of a caravan in the rear garden of the semi-detached dwelling as incidental accommodation to the main property.

Second Schedule

Land at No.60 Waynflete Avenue, Brackley NN13 6AF.

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, would not have been 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: 08.01.2014

by **A R Hammond MA MSc CEng MIET MRTPI**

Land at: No.60 Waynflete Avenue, Brackley NN13 6AF.

Reference: APP/Z2830/X/13/2190381

Scale: Do not scale.

