The Planning Inspectorate

Appeal Decision

Site visit made on 24 January 2012

by Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA

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

Decision date: 14 February 2012

Appeal Ref: APP/A4710/X/11/2160589
Tower Lodge Farm, Score Hill, Northowram, Halifax, West Yorkshire HX3 7SH

- 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 W Elam against the decision of Calderdale Metropolitan Borough Council.
- The application Ref 11/00253/191, dated 5 March 2011, was refused by notice dated 18 July 2011.
- The application was made under section 191(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 siting of a caravan to be used as ancillary accommodation to Tower Lodge Farm.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The dwelling house at Tower Lodge Farm was built following planning permission granted in 1985 subject to an agricultural occupancy condition. Although another condition was substituted for the original after an application made in 1995, and a further application for removal of the condition made in 2008, the dwelling remains conditioned for agricultural occupancy.

3. The main issue is whether the caravan lies within the curtilage of the dwelling house and, if so, whether it can be regarded as ancillary accommodation incidental to the enjoyment of the dwelling house and, therefore, benefit from the provisions of section 55(2)(d) of the 1990 Act as not involving development.

Reasons

4. The caravan is occupied by the Appellant, the son of the occupier of the main house, and his partner. It was clear, at the site visit, that the caravan is fully self contained and capable of supporting independent living, with kitchen, lounge, small bedroom, boiler cupboard, box room, bathroom with shower and WC, and main bedroom.

5. The Appellant states that the caravan shares utility services with the main house, shares the postal address, and is not subject to a separate council tax assessment. The Appellant also contends that there is no subdivision

between the main house and the caravan and no separation of the existing residential curtilage has occurred or is proposed.

6. I saw that the main house has its own vehicle access directly off Score Hill, to an area of land surrounding the house. It comprises hard standing to the Score Hill frontage and the north east side, which the aerial photographs show being used for car parking, and garden space to the rear and south west side. An area of land to the north east, on the far end of which the caravan is sited, is separated from the area around the main house by an open timber fence, with small conifer trees and a hedge. The fence has a small gate allowing access for pedestrian use between the two pieces of land.

7. The land on which the caravan is sited is grassed, and kept reasonably short. It appears to serve the purpose of the caravan as amenity space, rather than the house. Overall, the physical appearance is not that of a single curtilage for the house and the caravan, but two curtilages separated by the fence and hedge to the north east of the house.

8. This impression is reinforced by the details shown in the 2008 application to remove the agricultural occupancy condition. The red line is shown drawn around the land containing the house, but not around that on which the caravan is currently sited. The aerial photographs, dated from 2001 onwards, show the fence and hedge to the north east of the house, but otherwise add little.

9. Despite the sharing of services and postal address, and the family connection between the occupants, the Appellant has not shown, on the balance of probability, that the caravan is situated within the domestic curtilage of the house. It therefore cannot benefit from the provisions of s55(2)(d) of the 1990 Act as ancillary accommodation incidental to the enjoyment of the dwelling house. I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development was well founded.

Alan Novitzky

Inspector