

Development Management Delegated Decision Report

B/21/0495



SUMMARY OF APPLICATION

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Application Reference	B/21/0495		
Application Type	Certificate of Lawfulness (proposed use)		
Proposal	Application for a Certificate of Lawfulness under section 192 of the Town and Country Planning Act 1990 (as amended) for the proposed change of use to facilitate the siting of a mobile home/lodge within the curtilage of the dwellinghouse known as Barfords Farm, Swineshead Road for purposes incidental to the main dwelling		
Location	Barfords Farm, Swineshead Road, Frampton Holme, Boston, PE20 1SG		
Applicant	Mr James Proctor		
Agent	Mrs Angela Simmonds, Mark Simmonds Planning Services		
Received Date:	11-Nov-2021	Consultation Expiry Date:	21-Dec-2021
Valid Date:	30-Nov-2021	Statutory Expiry Date:	25-Jan-2022
Date of Site Visit:	19-Jan-2022	Extension of Time Date:	
Objections received?	None		
5 day notification record: Not applicable			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	That a Lawful Development Certificate is issued.		
Report by:	Simon Eldred		
Date:	19 th January 2022		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located on the southern side of Swineshead Road, and contains: a two-storey detached dwelling in an extensive residential curtilage; a range of stable buildings; and a group of larger storage buildings.

DETAILS OF PROPOSAL:

This application seeks a Lawful Development Certificate for the siting of a mobile home/lodge within the curtilage of Barford's Farm to provide ancillary living space. This, in effect, is a request to confirm whether the development proposed does not: constitute operational development or a change of use; or is permitted development.



RELEVANT HISTORY:

B/07/0148 – full planning permission was granted on 14th May 2007 for a replacement dwelling.

B/07/0159 – full planning permission was granted on 11th June 2007 for demolition of existing poultry houses and construction of a pheasant rearing shed.

B/07/0372 – full planning permission was granted on 23rd August 2007 for construction of general purpose agricultural storage shed.

B/08/0321 – full planning permission was granted on 20th August 2008 for change of use to proposed race horse stables and training facilities.

B/10/0315 – full planning permission was granted on 11th November 2010 for construction of a replacement dwelling.

B/10/0148 – application for full planning permission for construction of a replacement dwelling was withdrawn by applicant/agent.

B/13/0045 – full planning permission was granted on 31st May 2013 for erection of a four bedroomed, detached dwelling on site of the previous farm house.

B/21/0199 – full planning permission was granted on 24th June 2021 for proposed construction of a 40m x 20m equestrian riding ménage (arena).

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

An assessment against the provisions of the development plan is not required.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

Town and Country Planning Act 1990

Section 192 of the Town and Country Planning Act (as amended) states that:

“(1) If any person wishes to ascertain whether –

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect, and in any other case shall refuse the application...”

National Planning Practice Guidance

Paragraph: 009 Reference ID: 17c-009-20140306 of the Planning Practice Guidance indicates:

“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under section 192 a local planning authority needs to ask ‘if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?’

.... A refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.”

CONSULTATION RESPONSES:

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) indicates that this proposal does not have an impact on the public highway or surface water flood risk, and that it therefore does not wish to object.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

An application for a Lawful Development Certificate (LDC) is not a planning application in the normal sense, in that planning merits and an assessment against the development plan are not relevant. The determination is a question of whether the siting of a mobile home/lodge to be used for purposes incidental to the main dwelling would constitute development as set out in S55 of the Town and Country Planning Act 1990, includes any operational development or material change of use, or constitutes permitted development.

The application is accompanied by:

- a statutory declaration confirming that the mobile home/lodge: will be used to provide ancillary living space to accommodate a family member and their partner; will share services, facilities and access with the main house; and will not be used as a separate dwelling;
- a planning statement which argues that the proposal involves no material change in the use of the planning unit, and thus no development as defined by Section 55(1) of the 1990 Act;
- a number of documents and plans which provide information on the nature of the proposed mobile home/lodge;
- a plan which shows the proposed location for the mobile home/lodge; and
- the outcomes of appeals against refusals to grant similar LDCs.

The site visit confirmed that the location where the mobile home/lodge is proposed to be sited is within the curtilage to the dwellinghouse, and the information submitted demonstrates that:

- the mobile home/lodge that is proposed meets the requirements of a ‘twin-unit’ caravan in terms of its mobility, design, size and construction; and

- the proposed mobile home/lodge will: be used as an integral part of the overall use of the property as a single dwellinghouse; and share services, facilities and access to the house.

Taking account of the above, it is considered that:

- the proposed mobile home/lodge does not constitute a 'building';
- the property will remain as a single planning unit; and
- the use will be an integral part of the use of the planning unit as a single dwellinghouse in single family occupation.

CONCLUSION:

Section 55 of the Town and Country Planning Act 1990 sets out the meaning of development and, taking account of the submitted information, it is considered that the proposal does not: constitute development; involve a material change of use; or involve any operational development. It is thus concluded that the proposal does not constitute development in any way and that the proposed siting of the mobile home/lodge within the curtilage of the dwellinghouse would be lawful.

RECOMMENDATION:

It is recommended that a Lawful Development Certificate be issued.

Based on the submitted information, the proposal does not involve development as defined in Section 55 of the Town and Country Planning Act 1990, as it would not constitute a material change of use or involve operational development. It is concluded that, based on the submitted information, the proposed siting of a mobile home/lodge within the curtilage of Barford's Farm, Swineshead Road, Frampton Holme, Boston, PE20 1SG is lawful