



TOWN AND COUNTRY PLANNING ACT 1990: Section 191 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2015
Article 39

REFUSAL OF APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR AN
EXISTING USE

TO: Ms. Heather Woods

OF: The Greenhouse Gravel Hill Shirrell Heath Hampshire

In pursuance of their powers under the above-mentioned Act and Order, Winchester City Council, as local planning authority **HEREBY REFUSE** your application for a Certificate of Lawfulness for the existing use or operation under Section 191 of the Act, dated the 30th July 2019 reference number 19/01683/LDC, in respect of the Land described in that application, namely The Greenhouse Gravel Hill Shirrell Heath Hampshire shown edged red on the plan attached hereto and the mobile home situated on the Land shown shaded in red on the plan attached hereto.

The grounds for the Council's decision are as follows:

The Council is not satisfied on the balance of probabilities that the mobile home has been occupied as a lawful residential dwelling house for at least four years prior to the date of the application for a certificate of lawfulness.

In *Measor v Secretary of State for the Environment, Transport and the Regions* [1998] 4 P.L.R. 93; [1999] J.P.L. 182, it was held that the approach to the definition of a "building" should be considered, as a matter of fact and degree, in the light of factors such as size, permanence, physical attachment and composition by components. Generally a mobile caravan would not satisfy that definition, taking into account factors such as permanence and attachment.

The evidence provided in support of the claim that the mobile home was "immovable" in early 2015 is not relevant to the question of permanence and physical attachment of the structure, but rather refers to the weak structural integrity of the mobile home which would not be able to remain in tact if lifted and transported. This is not the same meaning of immovability as is required under the law for a mobile home to be considered a permanent dwelling house.

The works carried out to the mobile home from 2015 onwards are described by the applicant as being for the purposes of improvement and renovation. The nature of the works described have no bearing on the permanency of the structure and are, on balance, not considered to have altered the fundamental nature of the mobile home in such a way that it has become a lawful dwelling house.

The 2018 extension and works may have a bearing on the permanency of the mobile home, however, these have not been *in situ* for at least four years prior to the date of this application.

Therefore, the Council does not consider the use of the mobile home to be a lawful residential dwelling house.

Signed:



Service Lead – Legal Services
Winchester City Council

Dated: 10th September 2019

IT IS IMPORTANT THAT YOU READ THE NOTES

NOTES

1. If you are aggrieved by the decision of the Council to refuse an application for a Certificate under sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) or to refuse it in part you may appeal to the Secretary of State under section 195 of the Act (as amended).
2. You can appeal online at <https://www.gov.uk/appeal-planning-inspectorate> or by post addressed to the Planning Inspectorate, Room 3/13, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Copies of all relevant documents, including the application, the notice of decision and all plans, drawings and correspondence must be supplied to the Planning Inspectorate.
3. You are advised to consult the brief official guide to applications and appeals, published by the Planning Inspectorate <https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

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