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SUPPORTING STATEMENT

APPLICATION TO HORSHAM DISTRICT COUNCIL FOR A CERTIFICATE OF LAWFULNESS AT FOR

THE PROPOSED SITING OF A CARAVAN FOR ANCILLARY RESIDENTIAL USE ON LAND AT CHESTNUTS, HORNSHILL FARM, GUILDFORD ROAD, RUDGWICK, WEST SUSSEX, RH12 3BH.

London:
The Lansdowne Building
2 Lansdowne Road, Croydon
London. CR9 2ER

Gloucestershire (Postal Address):
Unit 1, Nailors Court
The Slipway, Back of Avon
Tewkesbury. GL20 5UR

Cambridgeshire:
4 Fenice Court,
Phoenix Business Park, St Neots
Cambridgeshire. PE19 8EP

Introduction

1.1 This application is submitted under the provisions of Section 192 of the Town and Country Planning Act 1990. This section states that 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.

1.2 If, on an 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 they shall refuse the application.

1.3 This application is submitted in order to seek Horsham Districts Council's confirmation that the siting of a caravan for ancillary residential use, within the curtilage of Chestnuts, Hornshill Farm, Guildford Road, would be lawful having regard to the provisions of the 1990 Act.

Application Site

2.1 The application site comprises of a detached single storey dwelling known as Chestnuts, to the north east of which is an existing former garage and barn building along with a carport. An aerial photograph of the site is shown in Appendix 1.

Planning History

3.1 RW/102.98 - Erection of a double garage and continued use of land for residential garden and continued use of the barn for domestic storage purposes. Granted 18th November 1998.

3.2 DC/20/0804 – Conversion of existing barn to ancillary accommodation subordinate to the main dwelling. Withdrawn 19.11.2020.

3.3 DC/20/2375 – Conversion of existing outbuilding to ancillary accommodation to the main dwelling. Erection of a porch to front elevation and fenestration alterations. Withdrawn 08.02.21.

3.4 DC/21/0497 – Use of existing outbuilding for purposes ancillary to the main dwelling (Chestnuts) (Certificate of Lawfulness – Proposed). Withdrawn 11.05.21.

3.5 DC/21/1072 – Application to confirm the continuous use of a detached building as ancillary accommodation for (Class C3 use) purposes, in non-compliance with condition 3 of planning approval RW/102/98 for a period in excess of ten years (Lawful Development Certificate – Existing). Refused 14.04.22.

3.6 DC/22/1050 - The barn and curtilage has been use as ancillary accommodation and use to the main house for more than 10 years and the alterations to barn 2 have been done more than four years ago (Lawful Development Certificate - Existing). Refused 15.02.24.

3.7 DC/23/2048 - Erection of a detached carport, metal shed, and wooden log store (Part Retrospective). Granted 17.04.24.

3.8 DC/24/0762 - Removal of Condition 3 of previously approved application RW/102/98 (Erection of a double garage and continued use of land for residential garden and continued use of the barn for domestic storage purposes) Relating to the use of the building. Granted 18.09.24.

The Application & Evidence

Background

4.1 This application is required to be determined having regard solely to matters of evidential fact and law, with the onus of proof on the applicant. The policies within the adopted Horsham District Planning Framework are not relevant to the determination of this application. For example any concerns regarding the potential impact on the character or appearance of the area are not matters that the Council can attach any weight to.

4.2 The Courts have held that (*see F W Gabbitas v Secretary of State for Environment and Newham LBC 1985*) the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability." As this test will accordingly be applied in any appeal against their decisions, local planning authorities should therefore not refuse a Certificate because the applicant has failed to discharge the stricter, criminal burden of proof beyond reasonable doubt.

4.3 Planning permission is only be required where development takes place. Development is clearly defined within Section 55(1) of the Town & Country Planning Act 1990 as

the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

4.4 This definition comprises two limbs, the carrying out of operations or the making of any material changes in use of the land.

4.5 As will be set out below, the proposed siting of a caravan for ancillary residential purposes on the land will not amount to development as defined within as defined by S55 of the Act.

4.6 Therefore the main issues for the Council to consider when determining this application are as follows:-

i) Whether the 'unit' proposed to be sited on the land is a caravan as defined in the Caravan Sites & Control of Development Act 1960 (as amended)?
ii) If it is accepted that the unit is a caravan, whether the caravan will be sited within the same planning unit as the main house Chestnuts?
iii) Will the caravan be used solely for purposes ancillary to the residential use of Chestnuts?

<u>Whether the Unit is a Caravan?</u>

4.7 The term 'caravan is defined in s29(1) in the Caravan Sites and Control of Development Act 1960 as meaning '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, but does not include—(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent'.

4.8 This definition was subsequently modified by Section 13(1) of the Caravan Sites Act 1968, which deals with twin-unit caravans. Section 13 (1) permits within the definition a structure designed or adapted for human habitation which: a) Is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and b) Is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled.

4.9 Section 13(2) of the 1968 Act further prescribes the following maximum dimensions for twin-unit caravans: a) length (exclusive of any drawbar) - 65.616 feet (20 metres); b) width - 22.309 feet (6.8 metres); c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) - 10.006 feet (3.05 metres).

4.10 To accord with the statutory definition of a caravan, three tests must be passed in relation to size, mobility and method of construction each of which are considered below.

Size

4.11 The proposed twin-unit caravan, as shown in the submitted plans would be 14.8 metres in length (48.5 Feet), have a width of 5 metres (16.4 Feet) and have an overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) of 2.5 metres (8.2 Feet).

4.12 Therefore the size of the twin caravan is comfortably with the maximum dimensions as set out within Section 13(2) of the 1968 Act and as such passes the 'size test'.

Mobility

4.13 The proposed twin-unit caravan would not be physically attached to the ground, and rest on the land under its own weight. It would be connected to electricity, water and sewage, however these elements can quite quickly and easily be disconnected.

4.14 In relation to mobility it is only necessary to be able to demonstrate that the caravan, when assembled, is physically "capable of being moved by road from one place to another, whether by being towed, or by being transported on a motor vehicle or trailer". "Capable" in this context refers to the ability to do something, but not necessarily doing it. The Act does not say that you have to be able to physically demonstrate that a caravan can be moved from one place to another, only that you must be able to show, on the balance of probabilities, that it is "capable of being moved". An ordinary reading of the provisions would therefore point towards this being a hypothetical test of mobility.

4.15 Within the appeal decision shown at Appendix 2, when considering the 'mobility test' the Inspector noted in paragraphs 16 and 17 of his decision:

"*The mobility test does not require a mobile home to be mobile in the sense of being moved on any wheels and axles it may have. It is sufficient that the unit can be picked up intact (including its floor and roof) and be put on a lorry by crane or hoist. In the case of twin-unit mobile homes the whole unit must be*

physically capable of being transportable by road, the illegality of any such transportation on the public highway being irrelevant. As a matter of fact and degree, I consider that the proposed accommodation once assembled would be capable of being moved intact within the terms of the statutory definition.

I *note that the proposed unit would rest on concrete "pad stones" placed on the ground. As such, the unit's degree of physical attachment to the ground and the effect on mobility would be minimal or non-existent. Similarly, any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved. The mobile home would not acquire the degree of permanence and attachment required of buildings. The mobility test would be met."*

4.16 Within this decision, the Inspector made it clear that "any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved".

4.17 Also, relevant in the context of the 'mobility test' is the judgement reached in Brightlingsea Haven Limited and another v. Morris and others 2008 EWHC 1928 (QB). Here, in paragraphs 83 and 84, Jack J addressed the this as follows:

"*83. Section 13 of the 1968 Act requires that the structure 'is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)': but it need not be capable of being lawfully so moved. The last provision appears to be because of width problems: I refer to Howard v Charlton, paragraph 6. The phrase 'from one place to another' also occurs in section 29(1) of the 1960 Act, but section 29(1) does not refer to 'by road'. Section 13 provides alternatives, movement by towing, and movement by loading onto a carrier. The two opposing constructions are these: whether the structure must be capable of being moved by road from one place to another, with no specific places or roads in mind, or whether the structure must be capable of being moved from where it is and moved by road to another place.*

84. I have concluded that the first construction is the correct one. My main reason is that it is consistent with the purpose of the Act that, if a structure is once a caravan, it should remain a caravan if it is itself unaltered, regardless of where it is. If a lodge meeting the requirements of the section and so a caravan is assembled on a site, it should not cease to be a caravan if it becomes boxed in by other lodges and cannot be got out because lifting apparatus cannot sufficiently approach. Likewise, with the growth of trees. Likewise, with the change of season making ground alternatively passable or impassable to equipment or the lodge. It is also very possible that the kind of caravan that is

towed behind a car might be placed in a position from which for one reason or another it could not be moved, either temporarily, or permanently. It is surely unthinkable that it would then cease to be a caravan as defined in section 29 because 'it was not capable of being moved from one place to another'. I therefore decline to follow the view tentatively express by HHJ Rich in the Byrne case. In my judgment, the test which the structure has to pass is as follows. It must either be physically capable of being towed on a road, or of being carried on a road, not momentarily but enough to say that it is taken from one place to another. It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road."

4.18 In a separate appeal decision, a copy of which is shown within Appendix 3, the Inspector also considered the mobility test and noted how temporary lifting beams would be installed under the structure so as to enable it to be lifted safely as a single entity. This is consistent with the judgement in Carter v SSE & Carrick DC [1991] JPL 131; [1995] JPL 311) which clarified that for a structure to be a caravan for the purposes of the Caravan Sites Acts the fully assembled unit must be capable, as a whole, of being towed or transported by a single vehicle.

4.19 As is the case with this application, the caravan would be capable to being lifted as a single entity onto the back of a specialist lorry. Therefore it follows, in line with the appeal decision shown, that the mobility test would be passed in this instance.

Construction

4.20 The plans submitted with this application show that the proposed caravan would be composed of two sections, which would be separately constructed, and then joined together on the application site as the 'final act of assembly.'

4.21 With respect to the assessment of the 'construction test' there is no requirement for a caravan to be delivered to the site in two sections which the appeal decision at Appendix 4 makes clear. Here the Inspector sets out that he could see no requirement in Section 13(1)(a) of the 1968 Act that the process of creating the two separate sections must take place away from the site on which they were then joined together. Provided that there was a final act of assembly when the two sections were joined together the 'construction test' would be passed.

4.22 This issue was also considered within the appeal decision already shown at Appendix 3 where the Inspector stated at paragraph 12:-

"the Council appear not to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in

paragraph 8 above, was not satisfied. In particular, the Council's evidence does not cast doubt on the appellant's explanation of how the two sections were assembled on the land and then joined together in the final act of assembly."

4.23 Therefore taking into account how the caravan would be constructed in this instance, it is considered that the construction test would be passed.

Location of caravan

4.24 The application site is a single residential planning unit that comprises the main dwelling known as Chestnuts, and its lawful garden grounds, an ancillary barn building, parking area and car port as outlined in red on the submitted location plan. The proposed caravan will be sited within this planning unit, in the approximate location shown on the submitted location plan. The key issue is whether the land where the caravan is to be sited is lawfully a part of the residential planning unit associated with Chestnuts.

4.25 The well-known case of Burdle v Secretary of State for the Environment [1972] 3 All ER 240 sets the tests for determining the extent of a planning unit. Three broad categories were identified by Bridge J, who stated:

"First, whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered. That proposition emerges clearly from G Percy Trentham Ltd v Gloucestershire County Council [1966] 1 WLR 506, where Diplock LJ said, at p 513:

> *"What is the unit which the local authority are entitled to look at and deal with in an enforcement notice for the purpose of determining whether or not there has been a 'material change in the use of any buildings or other land'? As I suggested in the course of the argument, I think for that purpose what the local authority are entitled to look at is the whole of the area, which was used for a particular purpose, including any part of that area whose use was incidental to or ancillary to the achievement of that purpose."*

"However, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities, and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time, but the different activities are not confined within separate and physically distinct areas of land.

Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for

substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit."

4.26 Having regard to Burdle, it should therefore always be assumed that the unit of occupation is the appropriate planning unit unless and until some smaller unit can be recognised as the site of activities which amount in some substance to a separate use both physically and functionally. The Planning Encyclopaedia similarly points out that both physical and functional separation are required before a smaller unit can be identified, since without physical separation there is no smaller physical area which can be identified as a separate unit, and without functional separation the ancillary link remains.

4.27 Within the appeal decision shown in Appendix 5, the Inspector in this case, when assessing the lawfulness of a caravan to be used for ancillary accommodation being sited within the same planning unit as a residential dwelling, they stated at paragraph 17:-

"However, it is not uncommon for the curtilage, which relates to a building, to be more limited in extent than the planning unit, which relates to the use of the land. As pointed out above, the stationing of a caravan on land is generally held to be a use of land. Whether or not that use amounts to a material change in the use of the land (as the Council may be arguing) and thus development for which planning permission is necessary, requires an understanding of the planning unit in the first instance. If the use of the planning unit does not change as a result of the development proposed and it remains a single planning unit, a material change in the use of the land is unlikely to occur. Critical to my determination therefore are matters relating to the planning unit."

4.28 In this case it is submitted that the proposed caravan would be sited within the curtilage of the dwelling known as Chestnuts and as such plainly would be sited within the same planning unit as the main dwelling.

Use of the caravan

4.29 The main dwelling on site is currently occupied by the applicant and her husband along with their adult son and also their daughter and her husband and their three children. The applicant and her husband assist with the childcare of their grandchildren.

4.30 The proposed caravan will be used by the applicant and her husband as this will free up space in the main dwelling allowing their grandchildren to have their own individual bedrooms instead of sharing. There is no intention that the caravan will be used as a separate self-contained residential unit. The water and electricity supply will be shared with the main house and no kitchen or

cooking facilities will be located within the caravan. All meals for the family will be prepared and taken within the main house.

4.31 As the proposed caravan will be sited close to the main dwelling as shown on the submitted plans, there will be no physical or functional separation of land, and no separate planning unit will be created. On the basis that at all times the occupation of the caravan will remain ancillary to the primary use of the land, no material change of use of land requiring planning permission will take place.

Conclusions

5.1 As set out above the proposed caravan to be sited on land adjacent to the dwelling known as Chestnuts would be within the definition of a caravan as set out within the 1960 and 1968 Caravan Sites Acts (as amended). It would not be fixed to the ground and would, at all times, remain a moveable structure

5.2 The caravan would be sited adjacent to the main dwelling on site within its residential curtilage and would clearly be within the existing residential planning unit. The caravan would not have its own separate curtilage.

5.3 The use of the caravan would at all times be ancillary to the use of the main residential dwelling on site and would be occupied by part of the same family unit.

5.4 For these reasons, and having regard to the submitted evidence, it is therefore clear that there would be no material change in the use of the planning unit, and thus no development as defined by S55 of the Town & Country Planning Act 1990 (as amended) would take place.

5.5 A number of further appeal decisions in addition to those already cited within this planning statement which support the conclusion that a caravan for use as ancillary accommodation being sited within the same planning unit as a lawful residential dwelling does not constitute development are attached in Appendix 6. Further supporting appeal decision are available on request.

5.6 It is therefore respectfully requested that the Council issue a certificate of proposed lawfulness pursuant to S192 of the Town & Country Planning Act 1990 (as amended).

APPENDIX 1



The Planning Inspectorate

Appeal Decision

Site visit made on 28 April 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 26 May 2016

Appeal Ref: APP/L5810/X/15/3140569
27 Elmfield Avenue, Teddington TW11 8BU

- 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 (hereinafter "certificate").
- The appeal is made by Mr Albert Ellis, Mrs Joy Ellis, Mr David Ellis and Ms Tracey Agutter against the decision of the Council of the London Borough of Richmond upon Thames.
- The application ref. 14/4973/PS192, dated 01 December 2014, was refused by notice dated 2 September 2015.
- The application was made under section 192(1) (a) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate is sought is described at section 2.1 of the Planning Statement accompanying the application as "The use of land within the curtilage of the dwelling for the stationing of a mobile home to be occupied ancillary to the main house."

Decision

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

Matters of clarification

2. The names of the appellants set out in the heading above have been taken from section 1.5 of their appeal statement. This section is somewhat clearer than the details set out on the application form and the appeal form.

3. The appellants acknowledge that the location plan is actually scaled to approximately 1:900 (not 1:1250) and the block plan to about 1:400 (not 1:500). The revised plans submitted with an email dated 2 March 2016 are not particularly helpful in their A4 format. I proceed on the basis of the original plans (taking into account the revised scales) and the measurements stated on the plans as appropriate, noting that the location of the mobile home (unit) is stated on the location and block plans to be nominal in any event.

4. An application for a certificate enables owners or others to ascertain whether specific uses, operations or other activities are or would be lawful. Lawfulness is equated with immunity from enforcement action.

5. A certificate is not a planning permission. Thus, the planning merits of the proposed development are not relevant, and they are not therefore issues for me to consider, in the context of an appeal made under section 195 of the 1990 Act as amended.

6. My decision must rest on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts in this appeal rests on the appellants. The test of the evidence is made on the balance of probability.

Main issue

7. I consider that the main issue is whether the Council's decision to refuse to grant a certificate was well founded.

Reasons

8. The proposal would see the introduction of a "Homelodge" mobile home in the sizeable back garden of the appeal property which is a two-storey detached house located in a predominantly residential area.

9. The intention now is for the first two named appellants to occupy the mobile home, whilst their son and daughter-in-law (the last two named appellants) would occupy the existing house from where they would be able to help with their day-to-day living needs. A reverse arrangement was contemplated at the time of the application. I do not consider that this change has any material effect on the appeal as such.

10. As I see it, the main issue turns on whether the provision of this mobile home within the curtilage of the dwelling house would amount to development requiring planning permission.

11. Section 55 of the 1990 Act as amended sets out the meaning of development. The nub of the argument presented by the appellants is that the mobile home to be sited on the land within the curtilage of the dwelling would comply with the statutory definition of a caravan in every respect, such that no operational development would take place and that as the mobile home would be used for purposes incidental to the enjoyment of the dwelling house as such, there would be no material change of use of the planning unit or land.

12. The statement presented by the appellants sets out in full various legislation concerning the meaning of a caravan. In short, the definition of a caravan is 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. The structure can comprise not more than two sections designed to be assembled on site, which is physically capable when assembled of being moved by road from one place to another, provided the structure does not exceed specified dimensions.

13. There is no dispute that the proposed mobile home would fall within the specified dimensions of a "caravan", and nor is there any dispute that it would be designed or adapted for human habitation. The Council queries the tests regarding its construction and mobility.

14. I have closely studied the letter dated 27 April 2015 from the managing director of Homelodge Buildings Limited, the attached photographs of that company's units being lifted on to the back of a lorry, the bay plan showing how the structure would comprise no more than two sections which are designed to be assembled by being joined together on the site and the letter dated 16 February 2016 from a qualified structural engineer at Braeburn Structures Ltd.

15. I am satisfied that the mobile home unit would not be composed of more than two sections separately constructed and designed to be assembled on the site by means of bolts. The construction test would be met.

16. The mobility test does not require a mobile home to be mobile in the sense of being moved on any wheels and axles it may have. It is sufficient that the unit can be picked up intact (including its floor and roof) and be put on a lorry by crane or hoist. In the case of twin-unit mobile homes the whole unit must be physically capable of being transportable by road, the illegality of any such transportation on the public highway being irrelevant. As a matter of fact and degree, I consider that the proposed accommodation once assembled would be capable of being moved intact within the terms of the statutory definition.

17. I note that the proposed unit would rest on concrete "pad stones" placed on the ground. As such, the unit's degree of physical attachment to the ground and the effect on mobility would be minimal or non-existent. Similarly, any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved. The mobile home would not acquire the degree of permanence and attachment required of buildings. The mobility test would be met.

18. I consider that what is being proposed meets the definition of a caravan. As the appellants say, it is settled law that stationing a caravan on land, even for prolonged periods, is a use of land rather than operational development. This principle is embedded in the legislative framework, endorsed by case law and routinely applied by the Planning Inspectorate. Thus, the limitations in the General Permitted Development Order that apply to the erection of buildings in the curtilage of a dwelling house have no relevance to this case.

19. The appeal unit would provide accommodation for use ancillary to the residential enjoyment of the main dwelling. The appeal site would remain a single planning unit and that unit would remain in single family occupation. Both the first two named elderly appellants have health problems and are becoming increasingly dependent upon the two younger appellants. The accommodation in the appeal unit would be used interchangeably with the accommodation in the main dwelling for socialising and practical support with day-to-day living needs. A completely separate self-contained dwelling unit is not being provided. I am satisfied, having read all the written representations, that there would be sufficient connection and interaction between the mobile home and the main house, such that there would be no material change of use of the land or planning unit requiring planning permission.

20. The appellants have referred to case law, previous appeal decisions and a considerable number of previous decisions for certificates that were granted by

other local planning authorities for similar proposals. This material supports the case being made by the appellants and I note that the Council has provided no written representations in response to this appeal to directly challenge any of the items submitted.

Conclusion

21. Drawing together the above, I find that, as a matter of fact and degree and on the balance of probability, the provision of the mobile home as proposed would not amount to development requiring planning permission. I conclude, on the evidence now available, that the Council's refusal to grant a certificate was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Andrew Dale

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 30 October 2017

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 27 November 2017

Appeal Ref: APP/B5480/C/17/3174314
Land at 28 Lodge Lane, Romford RM5 2EJ

- The appeal is made by Mrs Vicky Rose under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/49/17) issued by the Council of the London Borough of Havering on 14 March 2017.
- The breach of planning control alleged in the notice is "the erection of an outbuilding" on the Land.
- The requirements of the notice are as follows: -

  "EITHER:
  i) Remove the outbuilding in its entirety; and
  ii) Remove from the Land, all materials and debris resulting from compliance with steps *[sic]* (i).
  OR:
  iii) Cease the use of the outbuilding as a self-contained residential unit; and
  iv) Reduce the height of the outbuilding to no more than 2.5m from natural ground level; and
  v) Remove from the Land, all materials and debris resulting from compliance with steps (iii) and (iv)."

- The period for compliance with these requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f).

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons for the decision

The enforcement notice

2. The appellant maintains that the notice is a nullity due to "two fundamental errors". The first contention is that Requirement iii) is uncertain because it is not clear whether use as a granny annexe could continue; the second is that there is a mismatch between Requirement iii) and the allegation that an outbuilding has been erected. The Council's response is that the notice clearly identifies the alleged breach as the erection of an outbuilding, but that Requirement iii) should have been worded so as to require the use of the alleged outbuilding to be restricted to purposes incidental to a dwellinghouse, the intention of Requirements iii) and iv) being to bring the alleged outbuilding into line with what householders can carry out as permitted development.

3. The notice contains all the elements that it is required by law to contain and in my opinion it has been drafted so as to tell the appellant fairly what is alleged to have been done in breach of planning control and what must be done to remedy the alleged breach if the notice is upheld. Requirement iii) uses a well-understood planning term, as does the alternative wording put forward by the Council. In my view, the issues raised here by the appellant and the Council fall to be dealt with under the submitted grounds of appeal and by consideration of the exercise of the power to correct or vary the notice if this can be done without causing injustice.

Ground (b)

4. Under ground (b) the appellant maintains that the alleged breach of planning control has not occurred as a matter of fact, because what has taken place is not the erection of an outbuilding, but is the siting of the mobile home for which a lawful development certificate has been granted. The Council contend that an outbuilding has been erected in breach of planning control, and that what has taken place could not be the siting of a mobile home because of the method of construction and because the structure could not be moved from one place to another.

5. The lawful development certificate was granted on 4 August 2016 and it declares to be lawful the siting on the land of a mobile home to be used for purposes ancillary to the appellant's house on the land. (I have treated the reference to 29 Lodge Lane in the First Schedule to the certificate as an error, since the main dwelling concerned is clearly No 28.) The certificate states that it is based on the details shown on five drawings. From what I have seen and read about the alleged outbuilding, it appears to be in the location specified on these drawings and to have the same dimensions, external appearance and internal layout as those specified on the drawings (with the addition of some adjoining decking and steps which are not at issue in the appeal).

6. The term "caravan" is defined by statute and the statutory definition applies to the mobile home authorised by the certificate, rather than the ordinary meaning of the word. In the context of the appeal it means a 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).

7. A "twin-unit caravan" is not treated as being outside this definition by reason only that it cannot lawfully be moved on a highway when assembled. A twin-unit caravan is defined as one that "is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices" and "is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer". These prerequisites are usually referred to as 'the construction test' and 'the mobility test'. There is also a 'size test', but there is no dispute in this appeal that this test has been complied with.

8. As to the construction test, the mobile home for which the certificate was granted should consist of no more than two sections that have been separately constructed and that have been designed to be assembled on the land, and the

joining together of the two sections by the means described should be the final act of assembly. There is no requirement that the process of creating the two separate sections must take place away from the land.

9. The appellant has explained that the components were manufactured in kit form in a factory. The kit included finished panels and boards and timber floor cassettes that were chemically treated, boarded and insulated. These were all stacked into packs and wrapped with tarpaulins ready for transportation. They were then taken to 28 Lodge Lane on a 25ft flatbed wagon, off-loaded at the front using the vehicle's crane and moved manually into the back garden.

10. The appellant indicates that the components were then assembled into two sections, in accordance with the construction plans and the installation method, details of which she has provided. The plans show a front section and a back section. The installation method shows that the two sections, having been completed alongside each other, were then connected securely by using a series of bolts along the lines of the walls and floor.

11. The Council's case in relation to the method of construction relies on their inspections of the works during the assembly period and the photographs that were taken then. They state that the components were not delivered to the site in two sections lifted or craned off a transporter and that the structure was constructed on site by builders, joiners and other tradespeople. They indicate that the materials delivered to site included raw materials, such as timber and felt for the roof, that materials were stored on site and that a skip was placed in the front garden.

12. The Council's evidence is not in conflict with the appellant's explanation of what took place. However, the Council appear not to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in paragraph 8 above, was not satisfied. In particular, the Council's evidence does not cast doubt on the appellant's explanation of how the two sections were assembled on the land and then joined together in the final act of assembly.

13. As to the mobility test, the mobile home for which the certificate was granted should once fully assembled be physically capable of being moved as a whole by road, by being towed or transported. A lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network, but the mobile home should possess the necessary structural qualities to permit its movement in one piece without structural damage.

14. The Council concluded from their investigations that it was reasonable to assume that the structure would have to be dismantled in order for it to be moved off the site, because lifting in an intact form would be unlikely to be feasible given the method of construction. They therefore determined that it was not physically capable of being moved as required by the mobility test.

15. The appellant disagrees and has produced a 'Structural integrity and craning method statement', which is supported by drawings and detailed calculations drawn up by experts. The structure rests on plinths and is not fixed to the ground. The statement supports the view that temporary lifting beams could be installed under the structure to enable it to be lifted safely for transportation.

The Council have not disputed these findings and I have no reason to disagree with them.

16. For the above reasons, I am satisfied on the balance of probabilities that both the construction test and the mobility test have been complied with. I have come to the conclusion, as a matter of fact and degree, that the structure is the mobile home for which the lawful development certificate was granted and not an outbuilding. The alleged breach of planning control has therefore not occurred as a matter of fact and the appeal has succeeded on ground (b).

Grounds (a) and (f)

17. The notice has been quashed as a result of the appeal's success on ground (b). Grounds (a) and (f) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR

Appeal Decision

Inquiry held on 9 April 2002

by J G Roberts BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Transport, Local Government and the Regions

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Date
23 JUN 2002

Appeal Ref: APP/N1025/C/01/1074589
159 Victoria Avenue, Borrowash, Derbyshire.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by [redacted] against an enforcement notice issued by Erewash Borough Council.
- The Council's reference is [redacted]
- The notice was issued on 22 August 2001.
- The breach of planning control as alleged in the notice is without planning permission the erection of a single storey building in the approximate position marked with a cross on the plan attached to the notice.
- The requirements of the notice are:
  (i) remove the building;
  (ii) remove from the land all building materials and rubble arising from compliance with requirement (i) above.
- The periods for compliance with these requirements are: (i) Requirement (i) – 12 weeks; Requirement (ii) – 16 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d) (f) and (g) of the 1990 Act as amended. An appeal was made on ground (d) but withdrawn on 22 November 2001; after an exchange of correspondence which followed the inquiry the appeal on ground (d) was reinstated. As the appropriate fees were paid within the prescribed period the planning application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered also. Ground (g) was added during the inquiry.

Summary of Decision: The appeal is allowed and the notice is quashed.

Procedural matters

1. I visited the site on the day of the inquiry. At the inquiry an application for an award of costs was made on behalf of [redacted] against Erewash Borough Council. This is the subject of a separate decision.

The appeal on ground (b)

2. The notice alleges the erection of a building. The appellant contends that the Park Home is not a building and has not involved operational development of land, but falls within the definition of a caravan. This is found in section 29(1) of the Caravan Sites and Control of Development Act 1960. A caravan means 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, but does not include railway rolling stock in certain circumstances or tents.

3. Its application to twin-unit caravans is elaborated in section 13 of the Caravan Sites Act 1968. Such a structure, designed or adapted for human habitation and which is (a) composed of not more than 2 sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being a caravan for the purposes of part 1 of the 1960 Act by reason only that it cannot lawfully be so moved on a highway when assembled.

4. However, such a unit which when assembled exceeds 18.288m in length, 6.096m in width or 3.048m in overall height of the living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) are specifically excluded from the expression 'caravan' by section 13(2) of the 1968 Act. Thus there are 3 tests to be applied to the Park Home before me: a construction test, a mobility test and a size test. All 3 are contested.

The construction test

5. The local planning authority draws my attention to the analysis of the meaning of the words 'composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices' which was given in *Byrne v SSE and Arun DC, QBD 1997*. There is no requirement for the 2 sections to be each identifiable as caravans, or capable of habitation, before they are joined together. However, it was found that it was an 'essential part of the construction process in order to bring a structure which would not otherwise be a caravan, within the definition of that which is deemed to be a caravan, that there should be two sections separately constructed which are then designed to be assembled on a site..... If the process of construction was not by the creation of two separately constructed sections then joined together, the terms of the paragraph [section 13(1)(a) of the Caravan Sites Act 1968] are not satisfied'. They were not in that case because the log cabin concerned, composed of individual timbers clamped together as in that before me, had not at any time been composed of 2 separately constructed sections which were then joined together on the site.

6. That was not so in the case before me. Though the Park Home was delivered by lorry in many pieces I see no requirement in section 13(1)(a) that the process of creating the 2 separate sections must take place away from the site on which they are then joined together. It is necessary only that the act of joining the 2 sections together should be the final act of assembly. The appellant's evidence and photographs taken during the process of assembly demonstrate that the 2 sections, split at the base and ridge and each with a separate ridge beam, were constructed separately. The appellant was clear on this point. His evidence as to the facts of the matter was not disputed. In my opinion the process of construction fulfilled the test of section 13(1)(a).

The mobility test

7. Section 13(1)(b) of the Caravan Sites Act 1968 must be satisfied also. To fall within the definition the structure must be capable of being moved by road from one place to another in its assembled state. It may be moved by trailer, but is not excluded from the definition merely because it would be unlawful to move it in such a manner on a highway. The fact that the private drive to No 159 Victoria Avenue is too narrow to allow the passage of the Park Home in its assembled state along it is not the point. It seems to me that it is the structure that must possess the necessary qualities, not the means of access. It is not necessary for it to be capable of being towed, only that it is capable of being moved by road.

8. The appellant claims that it would be possible to lift the assembled structure, having first removed the terrace of timber decking and the porch which have been added to its western side, onto a lorry trailer which could then transport it from one place to another. The Council, however, argues that it has not been demonstrated that this could be done without serious significant damage to the structure – would the bolts hold? would it fall apart? – so that it cannot be regarded as transportable in a single piece.

9. I disagree. The manufacturer (Rural Accommodations) refers mainly to its movement in 2 sections, clearly the easier option here, but indicates that the reference to extra supports when shipping relate to extra safety and are not requirements. It would give a guarantee that 'the unit' is more than substantial enough to transport by road. Hewden Crane Hire indicates the method by which they would lift it, slew it round and lower it onto the ground or onto transport. The Park Home does not have a tiled roof or similar which would be liable to fall apart during the process. The fact that the cost estimate was based on an allowance of 8 hours does not exclude the Park Home from the definition of a twin-unit caravan.

10. The terrace and porch canopy are bolted to the unit and could be removed quickly and easily. The decking appears to have been attached to the remains of a caravan chassis and does not form an integral part of the structure. In my opinion neither affect the transportability of the assembled Park Home. In my opinion it meets the mobility criterion of the 1968 Act.

The size test

11. There is no dispute that the length and width of the assembled Park Home falls within the limits defined in section 13(2) of that Act, but Mr Thorp's measurements of internal height give a maximum of 3.060m, 12mm in excess of the maximum internal height measured from floor to ceiling of 10 feet (3.048m) specified in that section. The local planning authority's view is that either it falls within the size limits or it does not; there is no scope for the appellant's *de minimis* argument here.

12. However, Rural Accommodations states that the Park Home has been designed and built to a specification of a caravan to be used for permanent residence as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (BS 3632 : 1995). By implication it had been designed so that its maximum internal height would be no greater than 3.048m. The reason for the difference is not known, but it seems to me that 12mm discrepancy may be within the range of variation that might be expected from natural movement of timber. Further, the same structure could probably be brought within the strict definition of a twin-unit caravan very easily by the addition, for example, of strips of material 12mm thick added to the ceiling by the central ridge, or by plywood laid upon the floor. Its external dimensions would remain unchanged.

13. In these circumstances I agree with the appellant that the excess height is *de minimis*. To exclude the Park Home from the definition of a twin-unit caravan for this reason alone, or because the alterations necessary to bring it within the strict terms of the definition would now offend the construction test, would be verging on the unreasonable.

Conclusion

14. Therefore I regard the Park Home before me is a twin-unit caravan within the definition of the 1968 Caravan Sites Act and a caravan for the purposes of section 29(1) of the Caravan Sites and Control of Development Act 1960. It is clearly designed for and capable of use for

human habitation. The addition of the decking and porch canopy has not affected the integrity of the Park Home as such a twin unit.

15. It may look like a building at first sight. It may be a structure in the sense of something that has been constructed, but so are all caravans. The unit is not attached to the ground except by easily disconnected services. It rests on blocks, paving slabs and hardcore retained by railway sleepers, which have not resulted in a permanent change to the land on which it stands. Save for the 12mm in excessive internal height, which could be remedied easily, it falls within the definition of a twin-unit caravan, which sets it apart from other types of structure and is normally held to be a use of land. It has not become a building through permanence or its degree of physical attachment to the ground.

16. Therefore I conclude that the notice should have alleged the change of use of the land to use for stationing a residential caravan. The appeal on ground (b) succeeds. Whether its actual use is for the purpose of human habitation rests upon the relationship between occupation of the house and that of the caravan. This bears upon the appeal on ground (c). Both parties are fully aware that the notice is directed to the presence of the Park Home on the land. The difference is in their views on whether it should be treated as a caravan or as a building and in what consequences should flow from that determination, but the evidence of both parties covers both eventualities. As I am satisfied that the notice can be corrected without injustice to either I now turn to the appeal on ground (c).

The appeal on ground (c)

17. First, it is agreed by the parties that the whole of No 159 Victoria Avenue remains a single planning unit. I exclude the access track from the road to the gate which is shared with others. The main body of land contains a dwelling house, the Park Home, a swimming pool within a building (disused), a workshop used for the manufacture of picture and mirror frames by the appellant's parents who live in the Park Home, outbuildings, gardens and access, parking and turning areas shared between the house, the Park Home and the workshop.

18. The appellant retains ownership of the whole and there is no legal separation of the site into 2 parts. Both the house and the Park Home share an identical address, there is a common post box by the gate, the Park Home connects to the same foul water drainage system as the house, and single charges for the whole of the property are made for Council Tax, water and electricity. Only the telephone lines are separate. The Park Home is open to the remainder of the land on 3 sides. I agree that the whole of No 159 beyond the gate is a single planning unit and has been so at least since it was purchased by the appellant's parents in June 1978.

19. I turn now to the use of this planning unit. It includes use as a dwelling house, to which the gardens, garaging and pool are ancillary or incidental. This is not disputed. There is also the Park Home and the workshop. The implication of the appellant's argument is that the residential use of the Park Home is the same use as that of the dwelling house. There is said to be a degree of dependency, a separate planning unit has not been created, and 2 dwellings cannot occupy a single planning unit, so that there has been no material change of use.

20. Whether the Park Home accommodation is used for purposes ordinarily incidental to the primary use of the dwelling house as such is not the point here. That is relevant to the question of whether Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 applies, and that is concerned with the erection of buildings. In any event it is now widely accepted that use as living accommodation in connection with the dwelling house would be part and parcel of the main

use of that house and not therefore incidental to such (see the Secretary of State's decision reported in [1987] JPL 144 quoted in *Uttlesford DC v SSE and White, QBD 1991* and also *Michael Rambridge v SSE and East Hertfordshire DC, QBD 1996*. What is relevant is the use of the planning unit as a whole, which raises the question of the relationship between occupation of the house and that of the Park Home.

21. On this I have the unchallenged statement of the appellant and his supporting documents. There is certainly a close blood tie between the appellant, who now occupies the house, and his parents who now occupy the Park Home. They share utility services except the telephone. The parents work in the workshop, and also look after the appellant's son and nephew on occasions.

22. However, in explaining the reasons for the replacement of the former mobile home by the Park Home in May 2001 the appellant refers to the 'best place for them to reside'. Under cross-examination Mr Thorp referred to a 'lot of connectivity' but indicated that the appellant's parents received no daily assistance. The Park Home has and has specifically been designed to provide all the facilities necessary for day to day existence. There is no indication of shared meals and housekeeping arrangements any more than one might expect between friends and family living close by in separate dwellings.

23. On balance I consider that the occupation of the Park Home is sufficiently independent to amount to occupation by a separate household. That is not part of the primary use of the dwelling house but distinct, as the use of a caravan for the purposes of human habitation. It is functionally separate, but because it is not physically separate it has not resulted in the creation of a new planning unit. Nonetheless it represents the material change of use of the planning unit to a use which includes use as a residential caravan for one mobile home. Planning permission has not been granted for this change, which is in breach of planning control. The appeal on ground (c) fails.

The appeal on ground (d)

24. A caravan has been present on the site for many years. Owing to illness the appellant's grandparents, who had been living in a mobile home at Breedon-on-the-Hill, moved to a site alongside the poultry sheds, close to where the Park Home now stands, in early 1979 and, according to the appellant, 'assumed residence from then on'. His detailed personal recollections suggest to me that they lived essentially as a separate household independently of the appellant's parents who occupied the house. He would drop in frequently, as a visitor, for various reasons.

25. His grandfather died in 1988 but his grandmother remained there. She had coal delivered separately from the house. The coal merchant describes the caravan as 'the permanent home for Mrs Brentnall Snr.' There is no indication that she lived as part of her son's household. The aerial photograph taken about 1982 shows the substantial mobile home on the land. Mrs Brentnall Snr moved to a nursing home in about March 1998 and died in 2001, but the mobile home remained, available for occupation but vacant.

26. As his parents faced financial difficulties at the time the appellant bought the house from his parents in November 2000 but it seems that in anticipation of this they had already taken occupation of a touring caravan alongside pending replacement of the now deteriorating mobile home. The old mobile home was removed in April 2001 to make way for the new Park Home which was installed in May that year. In my opinion there is no material difference between the use of the Park Home before me and that of the mobile home which

occupied a site not identical to but overlapping the land on which the Park Home now stands.

27. The matter is complicated by the presence of the workshop, used by both the appellant's parents for the manufacture of picture and mirror frames. In September 1999 planning permission had been refused for the retention of a workshop and enforcement action to secure its removal was authorised, but planning permission was subsequently granted for the continuation of the use in a former egg production building. This is not regarded by the parties as a separate planning unit. Mr Thorp described it, in answer to questions from me, as having been granted only on the basis that it was "ancillary" to the dwelling (in which the appellant's parents then lived) and as "working from home".

28. On the balance of probability it seems to me that in 1979 a material change of use of the planning unit took place without planning permission, from use as a dwelling house to use as a dwelling house and as a caravan site for the stationing of one mobile home used for human habitation. This use continued until early 1998 and resumed, if not in the summer or autumn of 2000 when the touring caravan was occupied (with greater dependence on the house) and the mobile home remained present but vacant, in May 2001 when the Park Home was installed.

29. The circumstances suggest to me that this break in occupation of a mobile home was not sufficient to extinguish the use which by then had become immune from enforcement action by the passage of time and hence lawful. The use remained but was dormant until its point of resumption.

30. The workshop use, introduced in the late 1990s, is not ancillary to the residential use of either the dwelling house or the mobile home in the sense of serving it, nor is it incidental to it in the sense of ordinarily going together with it. It may be more than *de minimis* also. Even if so, its introduction did not result in a further *material* change to the character of the use of the planning unit as a whole, which is large, with a range of outbuildings only part of which is used for mirror and picture framing, and which at that time comprised both the dwelling house and caravan site uses (see *Beach v SSETR and Runnymede BC, QBD 2001).*

31. Hence the '10-year clock' did not start to run again at the point at which the workshop use began. The material change of use (to that including a mobile home) took place in 1979, more than 10 years before the date of the enforcement notice before me, and no further material change of use has taken place since. Therefore it was too late for enforcement action to be taken against the use of the land for stationing the Park Home before me. The appeal on ground (d) succeeds and the notice will be quashed. The deemed planning application and the appeals on ground (f) and (g) do not fall to be considered. The appellant may now wish to apply to the local planning authority for planning permission or a Certificate of Lawful Use or Development in order to obtain any site licence that may be required under the Caravan Sites and Control of Development Act 1960.

Formal Decision

32. In exercise of the powers transferred to me I direct that the notice be corrected by the deletion of the text of paragraph 3 of the notice and substitution therefor of the words 'without planning permission the material change in use of the land from use as a dwelling house to use as a caravan site for one mobile home for the purpose of human habitation'. Subject thereto I allow the appeal and quash the enforcement notice.

Information

33. Particulars of the right of appeal against my decision to the High Court are enclosed for those concerned.

Inspector

The Planning Inspectorate

Appeal Decision

Site visit made on 28 November 2017

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 06 December 2017

Appeal Ref: APP/V3310/X/17/3180697
Hackness House, New Road, East Huntspill, Highbridge, Somerset TA9 3PU

- 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 Matthew Wall against the decision of Sedgemoor District Council.
- The application Ref 25/17/00024/LE, dated 17 May 2017, was refused by notice dated 13 July 2017.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is create stone hardstanding, replace existing fencing (removed to site caravan) or installation of hard standing for mobile home/caravan.

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.

Procedural matters

2. The appellant does not appear to have been professionally represented at any stage in this matter.

3. Where an application is made under s192 of the Act it is for the applicant alone to describe what it is s/he wishes to do. The development for which the LDC is sought was described on the application form as set out in the summary details above. Two descriptions are set out because the copy of the application form supplied by the appellant had two, different, versions of section 8, '*Description of the proposal*'.

4. Although there is no power for a local planning authority to do so where an application has been made under s192, the Council altered the description of the proposed development on both the officer's delegated report and the decision notice. On the latter the Council described it as: '*the proposed use of land to site a static caravan to be used as ancillary accommodation for existing dwelling*.' There is no evidence that the applicant agreed to that change.

5. The appellant has then described the development as follows on the appeal form: '*Proposed use of land (garden & parking) within curtilage of house to site static caravan to provide ancillary accommodation for family member (son)*'. That is the basis on which I have considered this appeal. Notwithstanding the original description, which would be operational development and thus an

application under s192(1)(b) as set out above, I believe the proposal to be for a use of land and therefore made under s191(1)(a).

Main Issue

6. The reason given by the Council for determining that the development proposed would not be lawful is: '*The proposed caravan does not lie within the curtilage of the dwellinghouse and accordingly the development is not permitted by virtue of Section 192 of the Town and Country Planning Act 1990 and Part E (a) of Part 1, Schedule 2, Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 and would result in material change of use of the adjoining land and as such requires planning permission*'.

7. The stationing of a caravan on land is generally held to be a use of land. However, Schedule 2, Part 1, Class E (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 is concerned with the provision of buildings or enclosures and swimming or other pools, not the use of land. Although not entirely clear, I understand the decision notice to mean that the Council considers that the development would give rise to a material change in the use of the land. Nevertheless, from its appeal statement it appears that the primary reason for the refusal of the LDC application is that the Council does not consider the place where the caravan would be sited to be within the curtilage of the dwelling.

8. I believe this approach to be misconceived and do not consider 'curtilage' relevant to the determination of this appeal. The main issue therefore is simply whether or not what is proposed would be development that requires express or deemed planning permission.

Reasons

The evidence

9. Very limited information has been provided about the proposal. Nevertheless, I believe the proposed development to be clear in respect of both the intended purpose and the proposed location of the caravan within the land holding.

10. The proposal is to site a static caravan of what the appellant describes as the 'normal size (12 feet by 28/30 feet)'. Insufficient further information has been provided however to determine whether or not it would be a caravan as defined in the 1960 and 1968 Acts referred to by the Council. It would be used by the appellant's son and his partner for most residential purposes. However, the appellant confirms that they would eat their main meals with 'us' in the house; they would also use the washing facilities in the house. Pending a move to their own property once acquired, they are currently living in the main house but space is limited hence the application.

11. The gist of the appellant's case is that in discussions with the Council he was told that the proposal to site a static caravan within the curtilage of the property as ancillary accommodation to the main house was acceptable and that to regularise the proposal a LDC application should be submitted. This he did but it was then refused.

12. The Council does not dispute the appellant's version of events leading to the submission of his application. However, the essence of its case is that on

further assessment the land on which the caravan would be sited is not considered to be within the curtilage of the dwelling.

Appraisal

13. Hackness House is a detached dwelling standing towards the front of a large plot. Pedestrian and vehicular access to the front of the property from the highway is via a gate. This leads to a double garage attached to the house and an area of parking to the front of the dwelling. The rest of the front garden is laid to grass with boundary shrubs and hedges against fencing on two sides. To the rear of the house is a further garden predominantly laid to grass with similar fencing and boundary planting to that at the front. Near to the house there is a patio area on which there were placed some items of garden furniture. Within the lawn area there was a rotary clothes-line.

14. To the rear of this area of garden there is a further fence which runs across the majority of the plot. Beyond, through a gap, is an overgrown vegetable area, a greenhouse where some chickens were present at the time of my site visit, an area of hardstanding where vehicles were parked and some materials were stored and, beyond, a further tapering area of rough grass with what may have been a single fruit tree. The hardstanding can be accessed via a track which is outside of the appellant's ownership but over which he has a right of access.

15. The whole of the land described above is within the appellant's ownership and is, for the most part, enclosed. The principal means of access is via the gate at the front. The caravan that is the subject of the application would be sited on the hardstanding area near to the greenhouse. The occupants would be able to get to the house either through the gap in the fence at the rear of the garden and then through the garden itself or along the adjacent track.

16. The courts have considered the issue of curtilage many times. Generally, it is held to be an area of land around the building the use of which is intimately associated with the use of the building. It is a fact and degree assessment in each case. I do not disagree with the Council's conclusion in this case that what amounts to the curtilage of the dwelling ends at the fence at the foot of the rear garden. To that extent, I agree with the Council that the caravan would not be sited within the curtilage of the dwelling.

17. However, it is not uncommon for the curtilage, which relates to a building, to be more limited in extent than the planning unit, which relates to the use of the land. As pointed out above, the stationing of a caravan on land is generally held to be a use of land. Whether or not that use amounts to a material change in the use of the land (as the Council may be arguing) and thus development for which planning permission is necessary, requires an understanding of the planning unit in the first instance. If the use of the planning unit does not change as a result of the development proposed and it remains a single planning unit, a material change in the use of the land is unlikely to occur. Critical to my determination therefore are matters relating to the planning unit.

18. In my judgement all of the uses I have described above as taking place throughout the whole of the appellant's landholding are those associated with the residential use of land. Having regard to the findings of the courts in this respect I conclude that the land is now a single planning unit in residential use.

19. The question then becomes whether or not the proposed development would alter the use of the planning unit, affect its extent and/or create a new planning unit.

20. Turning first to the use, the terms 'ancillary' and 'incidental' have come to be used interchangeably in planning matters. The court has established that something which is 'incidental' cannot itself be a dwelling-house; nor, therefore, can it be something for the provision of a primary dwelling-house purpose, such as a bedroom or kitchen[1]. The accommodation proposed in this case (essentially bedroom and lounge areas as the prime uses) are not therefore ancillary residential uses but part and parcel of the normal facilities of the dwelling. Moreover, the way that the appellant describes the caravan being used would establish a functional link with the dwelling. All that would change in practice would be that the appellant's son and his partner would sleep and relax in the caravan rather than the house. What would be provided is tantamount to a residential annex. The family would still occupy the land as a whole as a single household.

21. Moving then to the extent, the proposed development would not alter the access to the land, the boundaries of the land, its ownership or the way it is arranged. The physical separation of the land where the caravan would be sited from the main dwelling is already in place.

22. To summarise, applying the principles established by the court to the evidence I conclude as a matter of fact and degree judgement that the land would remain a single planning unit. The use of the planning unit is now residential. The use of the caravan would be part and parcel of that residential use of the same planning unit. No new planning unit would be created and the use of the existing planning unit would not change. Therefore there would be no material change of use arising from the development for which the LDC is sought. The proposal does not therefore amount to development as defined in s55(1) of the Act for which planning permission is required. The appeal succeeds and the LDC should therefore be granted.

Other matters

23. I note the appellant's criticisms of the Council in the way that it has dealt with this matter and in particular with the way he considers the decision was reached. I also note the Council's response. Neither is material to my determination of the appeal. No doubt the Council has procedures in place through which the appellant could pursue the matter should he wish to do so.

24. The appellant proposes to provide a caravan. Whether what is actually provided is a caravan for the purposes of the relevant legislation will be a matter for the Council in due course; it is not material to my decision. Whether or not that leads to the establishment of a caravan site and the requirement for a site license is similarly not relevant to this decision.

Conclusions

25. I have noted above that the local planning authority has no power to alter the description of the development proposed in an application under s192 without the agreement of the applicant. That applies also to the Secretary of State on appeal. However, from the above I have concluded that the development

[1] See Encyclopedia of Planning Law and Practice, Volume 6 3B-1042.25 Westlaw UK on-line version

would not be within the curtilage of the dwelling, nor would it provide ancillary accommodation. To grant the LDC in the terms applied for would, on the face of it, appear to be inconsistent with my reasoning for doing so.

26. However, a LDC simply establishes that what is proposed would have been lawful at the date of the application. In effect it establishes a benchmark against which the local planning authority can measure what is actually provided. In this case, the critical components for the Council in this respect would appear to be the provision of a caravan, the exact position where it is sited and the way it is used. In my view, retaining references to 'curtilage' and 'ancillary accommodation' in the LDC do not prejudice the Council's ability to compare the development against the benchmark.

27. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of *Proposed use of land (garden & parking) within curtilage of house to site static caravan to provide ancillary accommodation for family member (son)* was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Brian Cook

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 17 May 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched 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 use of land proposed would not amount to a material change in the use of the land on which the caravan is to be sited. It would not therefore fall within the meaning of development set out in s55(1) of the Town and Country Planning Act 1990, as amended and no planning permission is required.

Signed *Brian Cook*

Inspector

Date: 06 December 2017
Reference: APP/V3310/X/17/3180697

First Schedule

Proposed use of land (garden & parking) within curtilage of house to site static caravan to provide ancillary accommodation for family member (son)

Second Schedule

Land at Hackness House, New Road, East Huntspill, Highbridge, Somerset TA9 3PU

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

The Planning Inspectorate

Plan

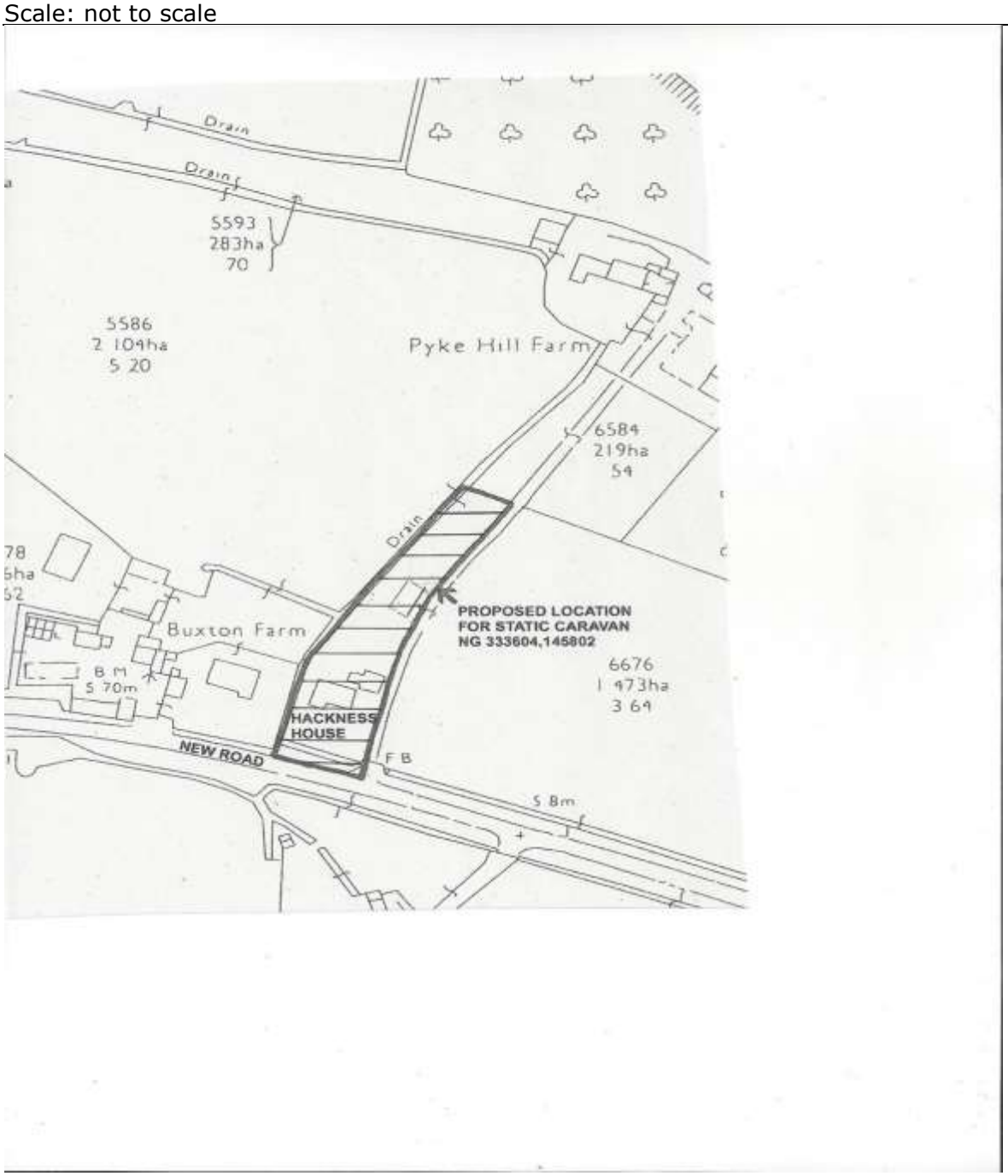
This is the plan referred to in the Lawful Development Certificate dated: 06 December 2017

by Brian Cook BA(Hons) DipTP MRTPI

Land at: Hackness House, New Road, East Huntspill, Highbridge, Somerset TA9 3PU

Reference: APP/V3310/X/17/3180697

Scale: not to scale



The Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2016

by Susan Wraith DipURP MRTPI

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

Decision date: 16 December 2016

Appeal ref: APP/Q1255/X/16/3142534
542 Blandford Road, Poole BH16 5EG

- The appeal is made under s195 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development [hereafter "LDC"].
- The appeal is made by Mr Nicholas Gray against the decision of Borough of Poole Council.
- The application no: APP/15/01398/K dated 2 October 2015 was refused by notice dated 1 December 2015.
- The application was made under s192(1)(a) of the Act.
- The development for which an LDC is sought is: To site a mobile home at the rear of the property and use it as a Granny annexe.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use comprising the siting of a mobile home at the rear of the property and its use as a Granny annexe which is considered to be lawful.

Preliminary matters

2. The description of the proposed development given on the decision notice is "to locate a mobile home in place of existing garage and summerhouse". On the appeal form the proposal is described as "to site a mobile home at the rear of the property and use it as a Granny annexe". I shall adopt the appellant's description for the purposes of the appeal as I consider this to more fully reflect the matter applied for.

3. Explanation is given in the Planning Statement and other supporting information that, in a number of respects, the mobile home would be functionally linked to the main dwelling. The proposal does not involve use as a Granny annex independently from the main dwellinghouse.

4. The relevant date for the purposes of this determination of lawfulness is the date of the LDC application i.e. 2 October 2015. The matter to be decided upon is whether the activity proposed, if instigated or begun at that date, would have been lawful. For ease of reading, however, I shall write in the present tense.

5. In an LDC appeal the burden of proof to demonstrate lawfulness is upon the appellant. The planning merits of the matter applied for (including those concerning the extent to which the development affects outlook from

neighbouring properties and the accommodation needs of the applicant) do not fall to be considered. The decision will be based strictly on the evidential facts and on relevant planning law and judicial authority.

Main issue

6. The main issue in this appeal is whether the Council's decision to refuse the LDC was well founded.

Reasons

Whether the caravan is a building

7. The parties agree that the mobile home would be sited on land comprised within the curtilage of the main dwellinghouse. It is also agreed that the mobile home (which is designed for human habitation), would fall within the statutory definition of caravan[1] when taking into account its size, mobility and method of construction.

8. The appellant argues that, because the mobile home falls within the statutory definition, it follows that the proposal is for a use of land rather than for an operational development. The Council, on the other hand, considers that there is a further test to be applied. In the Council's opinion it is also necessary to consider whether the mobile home is a building as defined by s336(1) of the Act[2].

9. The stationing of a caravan usually constitutes a "use" of land. The legislation which defines "caravan" is primarily concerned with habitable accommodation that is mobile and, thus, in most cases a use. However, as a matter of law, the possibility of a caravan also being a building cannot be ruled out[3]. I therefore agree with the Council that this is a further matter to consider.

10. The term "building" is to be interpreted widely. Case law[4] has held that there are three primary factors that determine what is a building, those being "size", "permanence" and "physical attachment". It may be appropriate to give greater weight to one over another in reaching a conclusion. No one factor is decisive.

11. In terms of permanence, the mobile home is required by the appellant and his wife (who currently occupy the main dwelling together with their daughter and her family) for a duration of time sufficient for them to provide childcare to their grandchildren so that their daughter can return to work and train as a nurse and also so that they themselves can receive help from the family into their retirement years. The mobile home would have a considerable degree of permanence.

[1] The term "caravan" is defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended).
[2] S336(1) of the Act defines "building" as including "any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building".
[3] In *Measor v SSETR* [1999] JPL 182, J.1007 the Deputy Judge said that he would be wary of holding, as a matter of law, that a structure which satisfies the definition under the 1968 Caravan Sites Act could never be a building for the purposes of the 1990 Planning Act but it would not generally satisfy the well established definition of a building having regard to factors of permanence and attachment.
[4] Cases which have examined the matter of what constitutes a "building" include *R (oao Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin) and *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No. 2) [2000] JPL 1025.

12. However, on the evidence, it appears that the mobile home would still remain mobile. It would be positioned upon the land (on a slab or pad stones for example) and be designed with the appropriate structural integrity to allow it to be lifted and placed on an HGV trailer and transported off the site[5]. This simple placement of the mobile home which could, at some point in the future, be removed in the manner described would not amount to a physical attachment to the land.

13. There would be attachments to services (such as water, drainage and electricity). However, detachment from such services is usually a simple matter which can be quickly achieved and, in any event, connection to services is not the same thing as physical attachment to the land.

14. The size of the mobile home is substantial. However, it falls well within the size limitations for a caravan as set out in the statutory definition. The statutory definition provides a strong indication that mobile homes of such size can be uses of land rather than buildings. Size is not a consideration which weighs heavily in my overall assessment of whether or not the mobile home is a building.

15. When considering all these three factors together, and taking into account the statutory definition of "caravan" which usually relates to uses rather than buildings, I conclude on balance that the siting of the mobile home for the use described would not amount to operational development as a matter of fact and degree.

Consideration of the use of the land

16. Turning now to the matter of use in more detail, the stationing of a caravan on land does not necessarily amount to a material change of use of the land[6]. It is necessary to consider how the caravan is to be used to determine whether a material change in use, and thus development, would be involved[7].

17. From the evidence and from what I saw at my site visit I am satisfied that the garden curtilage of the dwellinghouse defines the relevant planning unit for the purposes of assessing the materiality of any change of use. This is a physically distinct area with a clear functional purpose associated with the dwellinghouse. The primary use of the planning unit is that of a single dwellinghouse.

18. For the following reasons I consider that the siting of the mobile home within the planning unit, and its use as described in the application and appeal submissions, would not amount to a material change of use:

    (i) The mobile home would be positioned within the dwelling curtilage, sharing the access, parking, servicing and garden areas of the main dwellinghouse. It would have no separate curtilage.

    (ii) The overall planning unit would continue in occupation by the same family members as presently occupy the main dwelling.

[5] The mobility methodology for the mobile home is set out in the Mobile Home Report at Appendix B to the Planning Statement.
[6] Wealden DC v SSE & Day [1988] JPL 268
[7] The meaning of "development" is set out in s55(1) of the Act. It comprises two limbs – the carrying out of operations or the making of any material change in the use of the land.

(iii) The appellant and his wife, who would occupy the mobile home, would continue to play a part in family life including by providing childcare for their grandchildren within the main dwelling.

(iv) They would continue to use facilities in the main dwelling, including by taking their main meals with the family in the main kitchen/diner and undertaking laundry.

(v) The spare bedroom in the mobile home would be available for use by the family as a guest room.

(vi) There would be no separate postal address or separately metered services.

19. Whilst the mobile home would contain all the facilities for independent living it would not be used in a manner independent from the main dwelling. The use of the mobile home as described in the application would be a use comprised part and parcel within the primary dwellinghouse use which is already taking place within the planning unit, as a matter of fact and degree.

20. It has been argued that the use of the mobile home is a use "incidental" to the enjoyment of the dwellinghouse as such. However, "incidental" uses within the curtilage of a dwellinghouse are generally those which arise as an incidence of the dwellinghouse but which are not, in themselves, part and parcel of the existing dwellinghouse use[8]. The nature of use in this case, which would involve primary living space (for example sleeping and lounge areas) together with the functional linkages between the mobile home and the main dwelling, and the size of the mobile home, lead me to conclude that the use would be part of the primary use and not incidental to it. However, because there is no change to a different use, such use can take place without the need for planning permission.

21. I have considered whether the mobile home would result in a material change of use by reason of intensification, in particular when having regard to its size. However, when taking into account the suburban location, that the mobile home will replace an existing summerhouse and garage and that there will be no change in the level of occupation within the planning unit overall, I do not find that the mobile home will change the character of the primary use of the land to any material extent.

Other matters

22. The evidence indicates that the mobile home would sit upon pad foundations, a concrete slab or breezeblock pillars positioned on the slab[9] and that services (albeit taken from the main property) would be installed. This raises the question of whether these works would, in themselves, amount to development and, if so, whether or not they would be permitted

[8] Incidental uses are those which arise from the enjoyment of a dwellinghouse by an occupier, for example uses associated with a hobby, which are of a scale and nature which can reasonably be described as "incidental". The interpretation given at Class E to Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) states that "purpose incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

[9] Paragraph 2.14 of the Planning Statement says that the mobile home would rest on a concrete slab. The Mobile Home Report, at page 3 "Ground Works" says that, instead of sitting directly on the groundwork slab, the mobile home would sit on pillars of breezeblocks. The appellant has said in correspondence dated 21 November 2016 that it is intended to install individual pads.

development. However, these works do not expressly form part of the matter which is before me and, insofar as the placing of the mobile home is concerned, the appellant says there is no dependency upon foundations as the mobile home can rest on blocks or pads placed on the ground. I am satisfied that any of the above preparatory works (if they amount to development) would be separate operational developments to be carried out prior to the placing of the mobile home. It is not within the scope of this LDC appeal for me to decide upon these matters which can be left for the appellant and the Council in the first instance.

23. I have been referred to a number of appeal decisions. Whilst taking these into account I have determined this appeal based on the facts and circumstances of this particular case.

24. Although the "Woolley Chickens" case explores points of law around the interpretation of "building" (and to that extent it is relevant) it is distinguishable from the appeal case as it concerns a different type of development (poultry units). There was no need, in that case, to consider the statutory definition of "caravan" whereas, in this current appeal, the statutory definition has bearing upon the conclusion as to whether or not the matter applied for is a "building". This case law therefore carries only limited weight in my decision.

Conclusion

25. I find that, had the mobile home been sited and its use instigated at the time of the LDC application, there would not have been a breach of planning control and the matter applied for would have been lawful as a matter of fact and degree. For all the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant an LDC for the siting of a mobile home at the rear of the property and its use as a Granny annexe (not used independently from the main house) was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me under s195(2) of the Act.

Susan Wraith

INSPECTOR

The Planning Inspectorate

Lawful Development Certificate

APPEAL REFERENCE APP/Q1255/X/16/3142534
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 2 October 2015 the use described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended) for the following reason:

> The proposed siting of the mobile home at the rear of the property and its use as a Granny annexe (not used independently from the main house) would have been part and parcel of the primary use of the land as a single dwellinghouse and would not have given rise to a material change of use of the planning unit.

Susan Wraith

INSPECTOR

Date: **16 December 2016**

First Schedule

Siting of a mobile home at the rear of the property and its use as a Granny annexe (not used independently from the main house).

Second Schedule

542 Blandford Road, Poole BH16 5EG

IMPORTANT NOTES – SEE OVER

CERTIFICATE OF LAWFULNESS FOR PLANNING PURPOSES

NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 (as amended).
2. 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.
3. 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.
4. 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.

The Planning Inspectorate

Plan

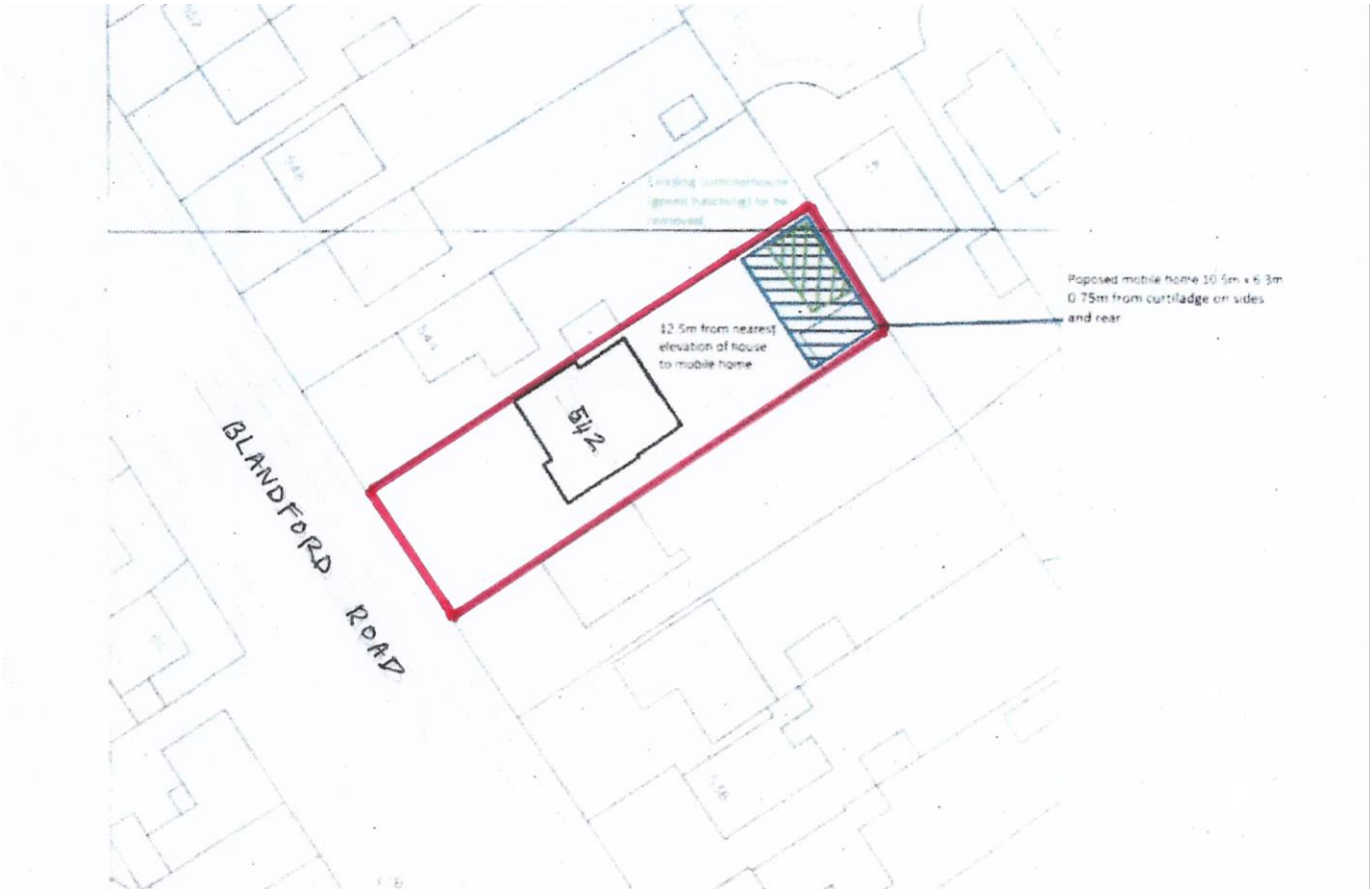
This is the plan referred to in the Lawful Development Certificate dated: **16 December 2016**

by Susan Wraith DipURP MRTPI

542 Blandford Road, Poole, BH16 5EG

Appeal ref: APP/Q1255/X/16/3142534

Scale: Not to scale



Planning and Environmental Appeals Division
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Scottish Government
Riaghaltas na h-Alba
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Appeal Decision Notice

Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Certificate of Lawful Use or Development appeal reference: CLUD-340-2009
- Site address: 2 Hill Cottage, Errol, Perth, PH2 7TQ
- Appeal by Robert Cockburn and Mrs Dianne Wood against the decision by Perth and Kinross Council
- Application for certificate of lawful use or development 24/00492/LAW dated 7 March 2024 refused by notice dated 7 June 2024
- The subject of the application: the proposed siting of a caravan for ancillary residential use
- Date of site inspection by Reporter: 8 August 2024

Date of appeal decision: 6 September 2024

Decision

I allow the appeal and grant a certificate of proposed lawful use in the terms set out in the certificate at the end of this notice.

A claim for expenses by the appellants against the council is dealt with in a separate notice.

Reasoning

1. This appeal is for a certificate of lawful use or development relating to the siting of a twin unit caravan in the garden of 2 Hill Cottage for ancillary residential use. Its dimensions are some 12.75 metres long by 6.1 metres wide, taken from the appellant's plan of the layout.

2. The appeal, under section 150(1) of the Town and Country Planning (Scotland) Act 1997 ('the Act'), has been submitted on the basis that the siting of the caravan for incidental residential use does not constitute development and would be sited within the lawful planning unit. In the context of a certificate of lawfulness appeal, it is not for me to decide whether the proposal is acceptable in planning terms, only whether it is lawful.

3. The appeal site, 2 Hill Cottage, is located on the west side of a farm access track, leading south from the B958 St Madoes to Errol road. It is surrounded by farmland. The cottage stands on a rectangular plot with a timber garage and one-metre-high fence marking its northern edge. Outside the fence is a triangular shaped piece of land, partially under lawn and partially a tarmac strip extending from the road and used for parking for the cottage. It was clear from my site inspection that the triangular area of land is functionally and visually associated with the cottage. There is a low grassed bank separating the triangular area from the adjacent field and this extends around the rear of the cottage.

4. The proposed site plan shows the caravan straddling the fence line, occupying the ground where the garage now stands as well as part of the lawn area and tarmac parking strip on the triangular piece of land.

5. The reason given by the council for the refusal of the application for the certificate is that the siting of part of the caravan on land outwith the curtilage of the house constitutes development which requires planning permission.

6. The definition of a caravan is contained at section 13(1)(a) and (b) of the Caravan Sites Act 1968, with the size being updated by the Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019 to allow a maximum of 20 metres by 6.8 metres, with a maximum internal height of 3.05 metres. This legislation allows a twin-unit caravan to be considered a caravan where it is physically capable of being moved by road from one place to another, even if it is not legally allowed to be moved on a highway when assembled. This is the case here and the council has not challenged the applicability of the definition.

7. I am satisfied, given the nature of the caravan, its size, and its ability to be moved, that it meets the definition of caravan under the relevant legislation and that it is, therefore, not classed as a building for the purposes of the planning legislation. The parking of a caravan on land is generally treated as a use of land rather than an operation. If the structure is within the definition of 'caravan' its positioning on land is not generally classed as operational development.

8. The appellants claim that the council was incorrect to refuse the application on the basis that part of the caravan would be on land outwith the historic curtilage of the house and thus constitute development requiring planning permission. It is argued that the appeal site is a single residential planning unit comprising the cottage and its lawful garden grounds, shown on the appeal plan as including the triangle of land outwith the fence. It is argued the caravan would be sited wholly within the planning unit and in this regard whether or not part of the land can be regarded as curtilage is immaterial.

9. It is maintained that the triangle of land has been in its present use for over ten years. This is supported by a statutory statement by the landowner, witnessed by a partner of a reputable legal firm, stating that the land has been used for purposes associated with the residential use of the property, including garden ground and parking, for at least ten years preceding the date of the statement in March 2024. The appellant has also provided eight aerial photographs from Google Earth taken between April 2011 and April 2023.

10. The council states that despite these details the appellants have not previously formally established that the use of the land outwith the curtilage as garden ground and a parking area is lawful. As a certificate of lawfulness for this change of use has been neither sought or issued, nor an application for planning permission for a change of use made, the lawful use of the land outwith the curtilage remains agricultural.

11. Section 26(2)(d) of the Act states that 'the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse' is not to constitute development. This is echoed in terms of the provision of a building within the curtilage in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. This states at Schedule 1, Part 1, Class 3A (1) 'The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or

improvement of such a building' is permitted development. This is subject to a number of qualifications, none of which are relevant in this case.

12. The key issue before me is therefore, in terms of legal compliance with both the Act and the Order, is what constitutes the curtilage of the building rather than what is the significance of the planning unit. 'Curtilage' is not defined in either the Act or the Order, but the judgement in *Sinclair-Lockhart's Trustees v. Central Land Board* 1951 SC 258; S.L.T. established the principle that ground used for the comfortable enjoyment of a house may be regarded in law as being within the curtilage, it being enough that it serves the purpose of the house in some necessary or reasonably useful way.

13. The appellants have emphasised that the appeal should focus on the planning unit, rather than the curtilage, but there is no reference to this in the Act. In terms of the curtilage the council's case effectively rests on its emphasis that the triangle of land on which part of the caravan would rest is still in agricultural use, and therefore outwith the curtilage. I have concluded above that functionally and visibly the ground can currently be considered as related to the cottage. The remaining question is whether the use of that land is established and lawful

14. I note that section 124(3) of the Act specifies that no enforcement action can be taken in respect of an unauthorised change of use (other than use as a single dwellinghouse) after the end of a period of ten years beginning with the date of the breach. The use must also have continued without interruption during the ten-year period up to the date of the application for the certificate. The council has not addressed the significance of either the statutory statement or the 2011 aerial photography.

15. Each of the photographs shows a clear demarcation between the cottage ground and the adjoining agricultural land, which is clearly in arable use. There are differing crop patterns according to rotation but in each case, there is a clear gap not in agricultural use between the fields and the cottage, with the triangular area outwith the fence never shown in agricultural use. In the 2011 photograph the tarmac strip has not been laid but a vehicle can be seen parked outwith the fence. There is no indication of the agricultural land having encroached on the triangular area.

16. My site inspection confirmed this demarcation with an obvious edge to the cultivated fields leaving the gap between them and the cottage and triangular area. The edge of the fields was marked by the low bank referred to above. Whilst my inspection was not in itself determinative of the length of time since the triangular shaped ground was first used in association with the cottage, I consider, on the basis of the above evidence, that it was before the 2011 photograph was taken. Taking all this into account I am satisfied, that, on the balance of probability, the use of the triangular area as garden and parking ground commenced more than ten years before the date of the application for the certificate, and has continued since then, without abandonment.

17. The question remains as to what constitutes the curtilage. My site inspection showed that the triangular area is obviously in use as part of the cottage ground and satisfies the court judgement given above that it serves the purpose of the house in some necessary or reasonably useful way. I find, therefore, that the triangular piece of land forms part of the curtilage of the cottage. Consequently the proposed caravan would be located entirely within the curtilage. The council's decision notice does not therefore provide a valid reason for refusal of a certificate.

18. Furthermore, I note that section 154(3) (a) of the Act requires a certificate to be issued on appeal if the appeal decision maker is satisfied that the authority's reason for refusal is not well-founded. In this case, for the reasons just given, I find that the authority's reason for refusal is not well-founded, and therefore conclude that the certificate should be granted.

19. The appellants have referred to a number of other court and appeal cases but non are directly relevant to this appeal. I have considered all other matters raised but found none that would persuade me to change my decision.

Trevor A Croft
Reporter

Planning and Environmental Appeals Division
Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

Scottish Government
Riaghaltas na h-Alba
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Certificate of Lawful Use or Development

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 150 AND 151
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 Regulation 44(6)

I hereby certify that on 7 March 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and delineated in red on the plan attached to this certificate was lawful within the meaning of section 150 of the Town and Country Planning (Scotland) Act 1997, for the following reason:

Under the terms of section 26(2)(d) of the Town and Country Planning (Scotland) Act 1997, the siting of the caravan within the curtilage of, and its use incidental to the use of, the dwellinghouse would not result in a material change of use in the land and therefore would not amount to development.

Trevor A Croft
Reporter

Date: 6 September 2024

First Schedule: Siting of a twin-unit caravan for use incidental to the use of the dwellinghouse under section 26(2)(d) of Town and Country Planning (Scotland) Act 1997.

Second Schedule: The northern part of the garden at 2 Hill Cottage, Errol, Perth, PH2 7TQ

Notes

1. This certificate is issued solely for the purpose of section 150 of the Town and Country Planning (Scotland) Act 1997.

2. 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 specified date and, thus, would not have been liable to enforcement action under section 127 of the 1997 Act on that date.

3. 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 other land may render the owner or occupier liable to enforcement action.

4. The effect of the certificate is also qualified by the proviso in section 151(4) of the 1997 Act, which states that the lawfulness of a described 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 relevant to determining such lawfulness.

A3



Date	Description	Rev	By
Revision Description			

MH Planning Associates

63 West Princes Street
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G84 8BN

01436 674 777
07816 907 203

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Client:
Robert Cockburn and Diane Wood

Project:
Proposed Siting of a Caravan, at:
Land at 2 Hill Cottage, Errol, Perth, PH2 7TG

Drawing Title:
Proposed Site Plan

Drawing Number:
2024_0013-03

Revision:	-
Date:	April 2024
Scale:	1:200 @ A3
Drawn By:	KM

Issue Status:
Planning

The Planning Inspectorate

Appeal Decision

by K R Saward Solicitor

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

Decision date: 17 February 2016

Appeal Ref: APP/X0360/X/15/3129575
Priors Farm, Easthamstead Road, Wokingham RG40 3BQ

- 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 J Prior against the decision of Wokingham Borough Council.
- The application Ref CLP/2015/0445, dated 24 February 2015, was refused by notice dated 8 June 2015.
- 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 curtilage of Priors Farm for use as an annexe.

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.

Procedural Matters

2. Although the appeal was brought in the names of Mr and Mrs J Prior, the original LDC application was made in Mr Prior's sole name. The appeal proceeds in his name as the person with the right of appeal.

3. The Appeal Form indicates that the LDC application was made pursuant to section 191 of the 1990 Act which concerns existing use or development. The appellant has confirmed the application is for a proposed use under section 192 of the Act.

4. The description of the proposal above is taken from the LDC application. It is clear within the application that the proposal is for residential purposes. The parties agree that the application would be more accurately described as the "siting of a caravan within the curtilage of the dwellinghouse at Priors Farm for incidental residential use". With the appellant's agreement to the change, I have used that description in the certificate below.

5. The appeal involves the consideration of relevant planning law and the facts which have not necessitated a site visit.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

Reasons

7. The appellant seeks a LDC to use the garden of his home to site a caravan for use as a residential annex. In order for an LDC to be granted under section 192 of the 1990 Act, the onus is firmly on the appellant to show that the development would be lawful.

8. The Planning Statement submitted with the application refers to how both Mr and Mrs Prior have suffered from ill health and family members have stayed for extended periods to provide care. Support from family and friends are expressed as an ongoing need. The Grounds of Appeal explain that the proposed caravan would be used as additional space for family and visitors to relax whilst they are seeing and helping Mr and Mrs Prior. Meals would be taken in the main dwelling.

9. In the Planning Acts, "caravan" has the same meaning as for the purposes of the Caravan Sites and Control of Development Act 1960. Essentially, it is 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) and any motor vehicle so designed or adapted.

10. The Council argues that it cannot identify on the information provided whether the caravan would be of a specification to meet the definition of a twin-unit caravan within section 13 of the Caravan Sites Act 1968 (as amended). Nor can it tell if such a structure would be within the specified size limits to be a "caravan" for the purposes of the 1960 Act.

11. Aside from scaled floor plans, the Council suggests that further details are needed including its assembly, transportation and fixation means along with water/sewage connection. The appellant has provided photographs of a couple of timber mobile homes as an example of the type of caravan in mind. They have not been presented as definitive models and might change. None of this matters as an LDC can only certify the use applied for. In this case it is the use of land for the siting of a caravan. The appellant states that it would be a caravan within the size limits and it would be "parked" on the land in much the same way as a car. So long as it is a caravan within the statutory definition that is stationed on the land then that is what matters.

12. By the same token, the application has been made for the 'use' of land for the siting of a caravan and not for operational development. This is clear from the description and the boxes selected in the application form. Any certificate granted would be for a use of the land only. If the appellant sought to do anything amounting to operational development then the LDC would be of no benefit.

13. The appellant has referred to permitted development rights pursuant to the Town and Country Planning (General Permitted Development) Order 2015. When the LDC application was made on 24 February 2015, it was the 1995 Order which applied. Article 3, Schedule 2, Part 1, Class E thereof permits buildings, amongst other things, within the curtilage of dwellinghouse for a purpose incidental to the enjoyment of the dwellinghouse as such. It is generally the case that a caravan would not satisfy the well-established

definition of a building when having regard to the factors of permanence and attachment.

14. The pertinent issue to be determined in this case is whether there would be a use of land within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of the dwelling house as such, within section 55(2)(d) of the Act, which does not amount to development.

15. The Council points out that the proposed caravan has not been marked on the site plan. The application has been made on the basis that it would be positioned within the red line shown on that plan which is the application site. Any lawful development certificate could only authorise development within the application site. The parties agree that the existing use of the site is as a dwellinghouse. Furthermore, the Council states that there is no evidence to suggest that the residential curtilage is anything other than the area outlined in red. Thus, there is no dispute that the area identified around the dwelling is residential curtilage. Accordingly, as long as the caravan is positioned within that red line site, which the appellant says is his intention, it would be within the agreed curtilage. There is no need for the appellant to pinpoint whereabouts the caravan would be within that curtilage.

16. The Council submits that based on the example floorplan provided, the mobile home could reasonably be described as a separate dwellinghouse. In this regard, my attention has been drawn to Appeal Decision Ref: APP/J0405/C/09/2103891 dated 2 December 2009. In that appeal, the Inspector quoted *Gravesham BC v SSE & O'Brien [1982] 47 P&CR 142* in which it was held that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. The appeal decision concerned an enforcement notice appeal relating to a building erected without planning permission for residential purposes. As a matter of fact and degree, the building was found to have the physical arrangement of a dwelling in its own right. However, the circumstances were case specific and did not relate to the use of land for the stationing of a caravan. Direct comparisons cannot be drawn.

17. Like many caravans, the example floorplan shows 2 bedrooms, a living room, bathroom and kitchen/dining area. On the face of it, those facilities would suffice for day-to-day living if that is the model chosen. Nonetheless, the crucial point is that the use made of the caravan must be incidental to the enjoyment of the dwelling house as such. This is reflected in the commentary at 3B-2088.2 of the Encyclopedia of Planning Law and Practice where it says in reference to the GPDO 1995 that use of a caravan within the curtilage for the purposes incidental to the enjoyment of the dwellinghouse falls within the primary use of the dwellinghouse and does not require separate planning permission. This corresponds with section 55(2)(d).

18. If the caravan is used in the manner set out in the application for sleeping accommodation and relaxation by family and friends with meals taken in the main house so that facilities are shared, then such use would not be development. The application can only be assessed on the basis of the stated purpose. If some other use takes place or it is not used in association with the dwelling, then it would not benefit from the LDC.

Conclusion

19. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the siting of a caravan in the curtilage of Priors Farm for use as an annexe was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

KR Saward

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 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 24 February 2015 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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

KR Saward

INSPECTOR

Date: 17 February 2016
Reference: APP/X0360/X/15/3129575

First Schedule

The siting of a caravan within the curtilage of the dwellinghouse at Priors Farm for incidental residential use as described in application reference CLP/2015/0445 dated 24 February 2015 and the supporting statement submitted therewith.

Second Schedule

Land at Priors Farm, Easthamstead Road, Wokingham RG40 3BQ.

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

The Planning Inspectorate

Plan

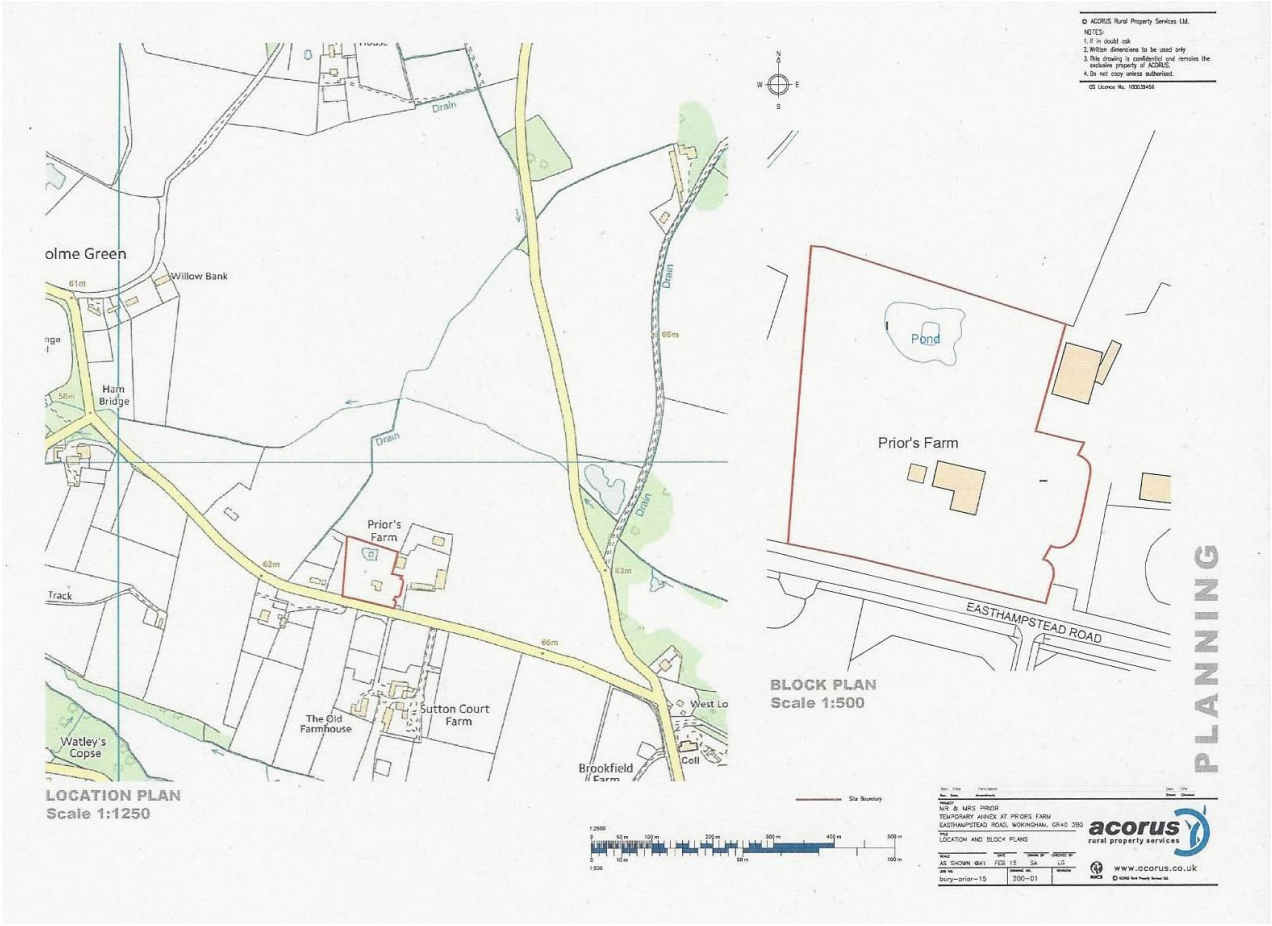
This is the plan referred to in the Lawful Development Certificate dated: 17 February 2016

by K R Saward Solicitor

Land at: Priors Farm, Easthamstead Road, Wokingham RG40 3BQ

Reference: APP/X0360/X/15/3129575

Scale: DO NOT SCALE



The Planning Inspectorate

Appeal Decision

Hearing held and unaccompanied site visit made on 5 July 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 07 July 2017

Appeal Ref: APP/R3650/X/16/3161457
15 Crondall Lane, Farnham, GU9 7BG

- The appeal is made under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act") against a refusal to grant a Certificate of Lawfulness of Proposed Use or Development ("the LDC").
- The appeal is made by Philly Hook ("the Appellant") against the decision of Waverley Borough Council ("the Council").
- The application Ref WA/2016/1066, dated 18 May 2016, was refused by notice dated 13 July 2016.
- The application was made under Section 192(1)(a) of the 1990 Act.
- The use for which the LDC is sought is for the siting of a caravan for ancillary use to the dwelling at 15 Crondall Lane.

Application for costs

1. At the Hearing an application for costs was made by the Appellant against the Council. This application will be the subject of a separate Decision.

Procedural Matters

2. I will refer to the existing dwelling-house at No. 15 as "the Dwelling-House".

3. Section 192(1)(a) of the1990 Act explains that if any person wishes to ascertain whether any proposed use of buildings or land would be lawful they may make an application for the purpose to the Local Planning Authority specifying the land and describing the use in question.

4. The plans accompanying the application show that the proposed caravan ("the Proposed Caravan"):

   a) Would be sited in the rear garden of the Dwelling-House.

   b) Would contain 4 bedrooms (one with an en-suite facility), a bathroom, a kitchen/dining area and a lounge.

5. The Appellant's agent also wrote to the Council explaining that the Proposed Caravan would be:

   a) Within the curtilage of the Dwelling-House.

   b) Used ancillary to the Dwelling-House.

   c) Used by family and friends related to or associated with the Appellant who is the occupier of the Dwelling-House.

6. Further, he explained that:

a) The Dwelling-House and the Proposed Caravan would comprise one planning unit.

b) No fence would be erected between the Proposed Caravan and the Dwelling-House.

7. The LDC was refused because:

a) The Council considered that the Proposed Caravan would not be ancillary to the primary residential use of the Dwelling-House and as such would amount to a material change of use.

b) Insufficient information had been submitted to demonstrate that the proposed structure would not be operational development.

8. At the commencement of the Hearing the Council agreed that the proposed structure would be a caravan and not operational development. Accordingly, the Council did not maintain the reason explained at paragraph 7(b) above as part of their case.

Relevant Background Matters

9. I was informed that the Council granted a Certificate of Lawful Use Or Development ("the Approved Certificate") dated 4 November 2016 for the siting of a caravan for ancillary use to the Dwelling-House. The Approved Certificate does not specify the size of caravan to which it relates or cross reference to any specific document which sets out these details. I was informed that the caravan referred to in the application that resulted in the Approved Certificate was significantly smaller than the Proposed Caravan.

Reasons

10. The Council's remaining concerns are that:

a) The size and scale of the Proposed Caravan cannot be ancillary to the Dwelling-House because they consider it to be too large.

b) The Proposed Caravan could be used for residential purposes even if the residential use of the Dwelling-House ceased.

c) They are not satisfied that there would be a functional link between the Proposed Caravan and the Dwelling-House.

Size & Scale of the Proposed Caravan

11. The Dwelling-House is a detached four-bedroom dwelling-house.

12. The dimensions of the Proposed Caravan are set out in the application plans and fall within the statutory limits regarding size of caravans.

13. The Appellant explained that she had a large family some of whom now live away from home. She also has other members of her extended family and a number of friends who would use the Proposed Caravan when visiting her. Further still, she explained that she has, from time to time, fostering responsibilities.

14. Whilst I note that the Council have concerns that adding a further four bedrooms in the Proposed Caravan may be excessive I do not consider this is a

matter which should concern the Council when dealing with a LDC for a proposed use. If the Appellant were to permit the use of the Proposed Caravan for any uses that were not ancillary to the residential use of the Dwelling-House it is likely that planning permission would be required and the Council would retain control over any non-ancillary uses of the Proposed Caravan.

15. Further, whilst the plans show four bedrooms it could well be that these rooms were used for other ancillary uses e.g. as a study room, a home cinema, a home library, a home fitness room.

16. I therefore conclude that the size and scale of the Proposed Caravan do not preclude it from being used for ancillary residential uses to the Dwelling-House.

Continued Residential Use of the Proposed Caravan if the Residential Use of the Dwelling-House Ceased.

17. It is clear that the facilities within the Proposed Caravan could, in theory, allow a residential use to continue if the substantive residential use within the Dwelling-House ceased. This would be equally true of a smaller caravan which contained cooking, bathing and sleeping facilities.

18. However, it was agreed at the Hearing and it is well established in planning law that if the residential use within the Dwelling-House ceased the ancillary residential use of the Proposed Caravan would also have to stop. Accordingly, the Council would retain control if the Proposed Caravan continued of be used in those circumstances.

19. I therefore do not consider that this is an issue that means that the Proposed Caravan would not be ancillary residential accommodation to the Dwelling-House.

The Functional Link Between the Proposed Caravan and the Dwelling-House

20. The Appellant explained that it was her intention that people using the Proposed Caravan would be using it conjunction with the residential use of the Dwelling-House. People using the Proposed Caravan could obviously make and eat meals within it but the intention was that they would use the facilities in the Proposed Caravan alongside those in the Dwelling-House.

21. If the functional link between the Dwelling-House and the Proposed Caravan was severed and an independent use of the Proposed Caravan commenced this is likely to require planning permission from the Council who therefore retain control over any use of the Proposed Caravan which did not have a functional link to the residential use of the Dwelling-House.

22. I therefore conclude that there is no evidence before me that there would be no functional link between the ancillary residential use of the Proposed Caravan and the residential use of the Dwelling-House.

Overall Conclusions

23. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant the LDC in respect of the siting of the Proposed Caravan for ancillary residential use to the Dwelling-House was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act and grant the LDC.

Decision

24. The appeal is allowed and attached to this decision is the LDC describing the proposed use which is considered to be lawful.

Tim Belcher

Inspector

APPEARANCES

FOR THE APPELLANT

Graham Lea BA(Hons), MRTPI (Retired)	Town & Country Planning Partnership Limited
Grant Marshall	Marshall Arts Design
Mrs Philly Hook	Appellant

FOR WAVERLEY BOROUGH COUNCIL

Louise Yandell MRTPI	Area Team Leader

The Planning Inspectorate

Lawful Development Certificate ("the LDC")

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 - (as amended by Section 10 of the Planning and Compensation Act 1991) ("the 1990 Act")

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 May 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 the LDC would have been lawful within the meaning of Section 191 of the 1990 Act, for the following reason:

1. The Proposed Caravan would comply with the definition of a "caravan" as set out in Section 29(1) of the Caravan Sites and Control of Development Act 1960 and Section 13(1) of the Caravan Sites Act 1968.

2. The lawful use of 15 Crondall Lane, Farnham, GU9 7BG is as a dwelling-house.

3. The proposed ancillary residential use of the Proposed Caravan sited within the garden of 15 Crondall Lane would not amount to a material change of use of the planning unit at No. 15.

4. For the reasons explained above no enforcement action could be taken against the Proposed Caravan or the ancillary residential use of the Proposed Caravan.

5. Further, the ancillary residential use of the Proposed Caravan would not constitute a contravention of any requirements of any Enforcement Notice then in force.

Tim Belcher

Inspector

Date: 07 July 2017

Reference: APP/R3650/X/16/3161457

First Schedule

The siting of a caravan for ancillary residential use to the dwelling-house at 15 Crondall Lane in accordance with Drawing Nos. CN/16/02; CN/16/03A & CN/16/04 submitted with the application.

Second Schedule

15 Crondall Lane, Farnham, GU9 7BG

NOTES

The LDC is issued solely for the purpose of Section 192 of the 1990 Act.

The LDC 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.

The LDC 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 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 LDC is subject to the provisions in Section 192(4) of the 1990 Act which state that the lawfulness of a specified use is only conclusively presumed where there has been no material change, before the use is instituted, in any of the matters which were relevant to the decision about lawfulness.

The Planning Inspectorate

The Plan

This is the Plan referred to in the LDC dated: 07 July 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

15 Crondall Lane, Farnham, GU9 7BG

Reference: APP/R3650/X/16/3161457 **Do Not Scale**



The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2017

by Jessica Graham BA (Hons) PgDipL

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

Decision date: 27 September 2017

Appeal Ref: APP/R5510/X/16/3166035
2 Westfield Cottages, Sipson Lane, Harlington, Hayes UB3 5EJ

- 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 Mrs Rebecca Hampton-Flory against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 71826/APP/2016/3207, dated 23 August 2016, was refused by notice dated 9 November 2016.
- 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 the siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such.

Summary of Decision: The appeal is allowed, and a certificate of lawful use or development is issued in the terms set out below in the Formal Decision

Main issue

1. The main issue is whether the Council's refusal to issue a LDC was well founded. That turns on whether the siting of a mobile home within the curtilage of the dwellinghouse, for use as described in the application, would amount to development requiring planning permission.

2. S.55(2) of the Town and Country Planning Act 1990 Act lists operations and uses of land that, for the purposes of the 1990 Act, shall not be taken to involve development of the land. This includes at s.55(2)(d) *the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.*

3. The Council refused to issue a LDC on the grounds that the proposal would not fall within s.55(2)(d) of the 1990 Act for two reasons: firstly, that the size, scale and facilities of the proposed mobile home were not such as would be required for purposes incidental to the enjoyment of the dwellinghouse, and secondly, that its siting would involve the installation of a substantial foundation which would constitute operational development.

4. The key questions for this appeal, then, are (1) whether the use of the mobile home would be for purposes incidental to the enjoyment of the dwellinghouse as such; and (2) whether siting the mobile home would involve operational development.

Reasons

Background

5. In applications for LDCs, it is for the Appellant to make out her case on the balance of probability.

6. The Appellant wishes to site a mobile home within the garden of her house, as ancillary accommodation for her elderly parents. The evidence of the Appellant, which is supported by letters from medical practitioners and is not disputed by the Council, is that both of her parents are in ill health and need a considerable amount of care and support. The appellant is a healthcare professional, and with help from her eldest daughter, wishes to care for her parents at home. There is insufficient space for this in the existing three-bedroom dwellinghouse at No. 2 Westfield Cottages, and the appellant's father would be unable to access the bathroom, which is upstairs.

7. The proposed mobile home is intended to provide a secure and supervised environment for the appellant's parents, while still allowing them a degree of independence and privacy. The mobile home would have three bedrooms; one for each of the appellant's parents, and one for her eldest daughter. There would be an en-suite bathroom attached to the bedroom used by the appellant's father, and a separate bathroom for the other two occupants. While the mobile home would have its own kitchen, main meals would be prepared by the appellant, and her parents would eat with the rest of the family in the dining room of the dwellinghouse.

Whether use would be for purposes incidental to the enjoyment of the dwelling

8. The curtilage of 2 Westfield Cottages consists of the garden around the dwellinghouse, as shown edged in red on the application plan. The mobile home would be sited within the garden just under 5m from the back door of the house, and would share the same access from Sipson Lane. It would not have its own separate postal address, and nor would services be separately metered: the electricity, central heating and water would connect to the existing supply, and would be paid for by the appellant.

9. I note the Council's concern that with a footprint of 92m², the proposed mobile home would represent 170% of the original 54m² footprint of the house, and so would fail to appear subservient. However, the dwellinghouse has two storeys, which together provide floor space of 108m². This is only slightly more than that provided by the mobile home, but the single-storey structure would appear visually subservient to the two-storey house. In any event, while comparative scale is a relevant consideration, it is not a determinative factor: the size of the proposed mobile home does not preclude it from being used for purposes incidental to the enjoyment of the dwellinghouse.

10. The Council also expressed concern that the proposed orientation and positioning of the mobile home would create a secluded private garden area to its rear, such that it would have its own curtilage independent from the original dwelling. However, the evidence of the appellant is that the proposed position of the mobile home is so that its entrance, living space and front bedroom would be visible from the main dwellinghouse. It would have no back door to open on to the rear portion of the garden, which would not be fenced off or severed from the rest of the curtilage in any way, but rather would continue to

be used as garden space for the enjoyment of all family members, whether resident in the main dwellinghouse or the mobile home.

11. The Council contends that because the mobile home would contain all the facilities required for day to day living, the appellant's parents would not be dependent on any of the facilities in the main dwellinghouse, and so there would be no functional link between the dwellinghouse and the mobile home. The appellant does not dispute the fact that the mobile home would contain all the facilities needed for day to day living, but her evidence makes it clear that the proposed use is not as an independent unit of accommodation. The use of the mobile home in the manner described in the application would be a use that was part and parcel of the use of the existing dwellinghouse at 2 Westfield Cottages. If it subsequently transpired that the mobile home was being used in a different way to that described in the application, then the LDC would be of no benefit to the appellant and it would be open to the Council to take appropriate action.

12. On the basis of the evidence before me, I conclude that 2 Westfield Cottages and all of its curtilage would remain under one ownership and control, and there would be no functional separation of the use of the mobile home from the use of the main dwellinghouse. I am satisfied that the mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse as such.

Whether siting the mobile home would involve operational development

13. The plans and supporting information submitted with the application demonstrate that the dimensions of the proposed mobile home would not exceed the size limitations set out in the statutory definition of a caravan given within the relevant legislation[1]. It would rest on top of spaced breeze blocks placed on a concrete slab and would not be physically attached to the ground. It could be removed by running straps between the breeze blocks, and lifting the unit by crane. The Council contends that laying the concrete slab would constitute the provision of deep foundations, "extending downwards by at least 1 metre", and would amount to engineering operations falling within the definition of development.

14. It is not clear how, on the basis of the information provided by the appellant, the Council has reached this conclusion. The plans submitted with the application do not indicate a concrete slab approaching anywhere near a depth of 1m, and in the course of the appeal the appellant has confirmed that the slab would be 30cm at its thickest point. In any event, the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such is, subject to limitations and conditions which do not apply here, Permitted Development[2]. Since I have found that the proposed mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse, it follows that the creation of a concrete slab for it to stand on would not constitute development.

15. This accords with the findings of the Inspector who determined an appeal in Hertfordshire[3], referred to in evidence by both the Council and the Appellant, albeit that the proposal in that case specified padstones for the mobile home to

[1] Caravan Sites and Control of Development Act 1960 (CSCDA) & Caravan Sites Act 1968 (CSA).
[2] By virtue of Article 3 and Schedule 2, Part 1, Class F of the General Permitted Development Order 2015.
[3] Appeal ref: APP/J1915/X/11/2159970

rest on, rather than breeze blocks. In support of its contention that the mobile home here proposed would have sufficient permanence and physical attachment to the land to constitute development, the Council drew my attention to reference within that Hertfordshire decision to caselaw concerning the readiness with which a unit of residential accommodation could be moved[4]. The test derived is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle.

16. The Council contends that since the appellant states the mobile home would be transported in sections by lorry and be assembled on site, it must follow that its removal would also have to be done in sections, which would fail the above test. However, the supporting material[5] submitted with the application not only states that the mobile home would be delivered to the site in panels which would be assembled in two sections prior to connection as a whole, it explains that its structure has the appropriate integrity to allow lifting with crane and cradle when assembled as a whole. This would allow the mobile home to be lifted on to a HGV trailer and transported by a single vehicle, thus satisfying the test in *Carter v SoS,* and the requirements of the CSCDA.

17. The Council also refers to the judgment in *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385 as authority for the proposition that if a structure can only be moved through the use of specialist equipment then, as a matter of fact and degree, it will have a greater permanence and physical attachment to the land so as to constitute operational development: the Council points out that a crane is not a piece of equipment commonly found in residential dwellings.

18. I accept that cranes are not readily available to householders or members of the public, but they are frequently deployed by operators engaged in the construction, sale and transport of mobile homes, static caravans, park homes, and other such structures. Importantly, the appellant in this case has provided sufficient information to demonstrate that the proposed mobile home would comply with all of the relevant criteria set out in the CSCDA and the CSA, would be capable of transportation by a single vehicle, and would not be physically attached to the land. In my judgment, when assessed against the considerations set out in *Cardiff Rating Authority* it is clear that the proposed mobile home would be a caravan rather than a building or structure.

19. I am therefore satisfied that the siting of the mobile home would not constitute operational development.

Other matters

20. The Harlington Conservation Area Advisory Panel has expressed concern about the impact the proposed siting of the mobile home would have on the Green Belt. However, I am unable to take such considerations into account since the planning merits of the proposal are not before me: applications for LDCs must be determined solely on the basis of whether or not the existing or proposed development is, or would be, lawful.

[4] *Carter v Secretary of State* [1995] JPL 311
[5] Value Mobile Homes Ltd: Caravan Construction Methodology

Conclusion

21. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such was not well-founded, and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

22. 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.

Jessica Graham

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 23 August 2016 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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 use as described in the information accompanying the application would not constitute development requiring planning permission.

Signed

Jessica Graham
Inspector

Date: 27 September 2017
Reference: **APP/R5510/X/16/3166035**

First Schedule

The siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such

Second Schedule

Land at 2 Westfield Cottages, Sipson Lane, Hayes UB3 5EJ

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

The Planning Inspectorate

Plan

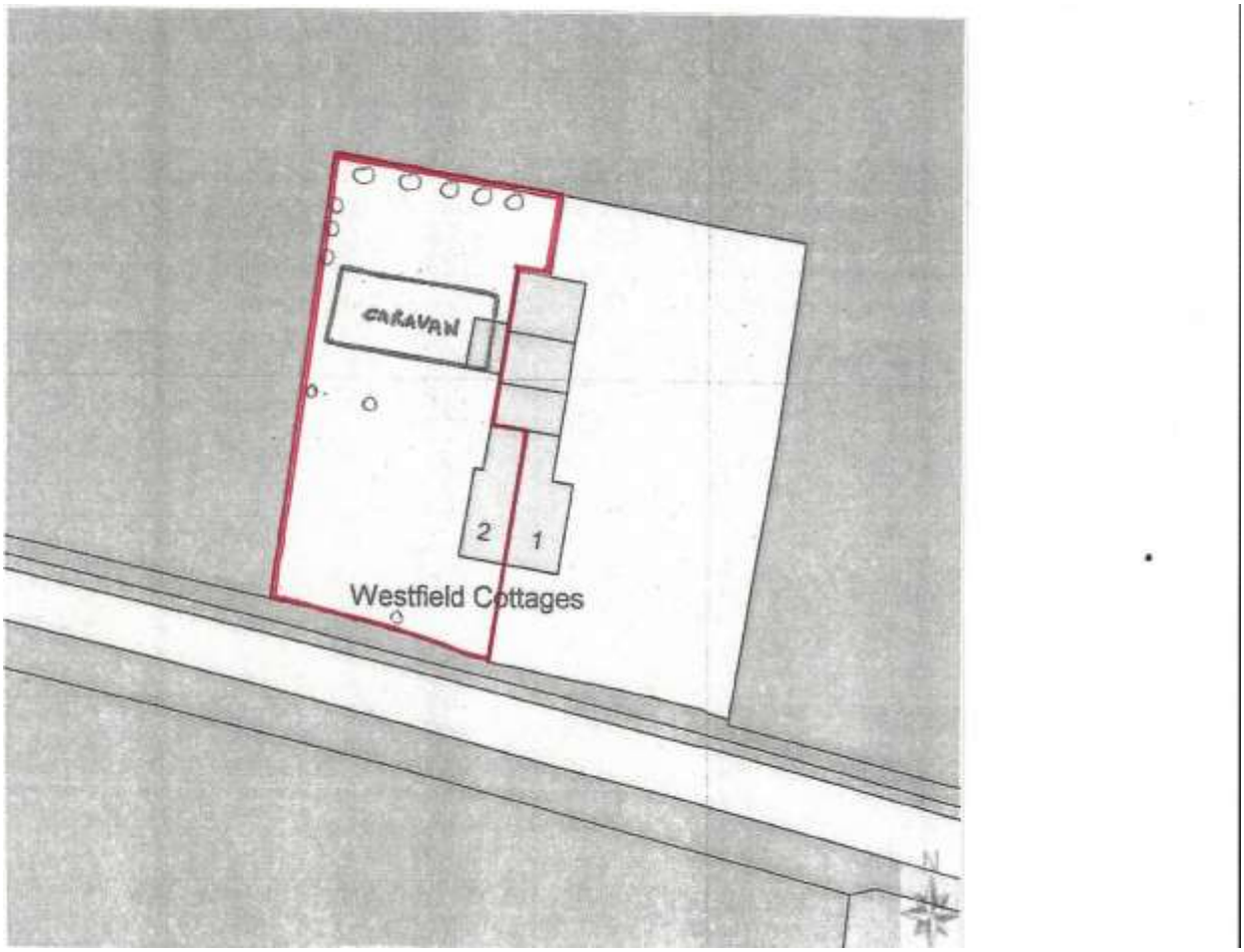
This is the plan referred to in the Lawful Development Certificate dated: 27 September 2017

by **Jessica Graham BA(Hons) PGDipL**

Land at: 2 Westfield Cottages, Sipson Lane, Hayes UB3 5EJ

Reference: APP/R5510/X/3166035

Do Not Scale



The Planning Inspectorate

Appeal Decision

by K R Saward Solicitor

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

Decision date: 2 November 2017

Appeal Ref: APP/A1530/X/17/3177321
Heathfield House, West End Road, Tiptree CO5 0QH

- 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 Mrs Tamara Kelsey against the decision of Colchester Borough Council.
- The application Ref 170191, dated 26 January 2017, was refused by notice dated 13 April 2017.
- 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 the siting of a caravan for ancillary use.

Decision

1. The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Decision.

Application for Costs

2. An application for costs was made by Mrs Tamara Kelsey against the Council. This application is the subject of a separate Decision.

Procedural Matters

1. The appeal involves the consideration of relevant planning law and the facts which have not necessitated a site visit.

2. Since the date of the Council's refusal to issue a lawful development certificate (LDC) planning permission has been granted for the "siting of ancillary residential caravan" at Heathfield House, subject to conditions. This has no bearing on my consideration of the appeal which must be decided strictly on the application of the relevant law and judicial authority to the facts.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

4. The appellant seeks a LDC to site a caravan within the garden of her home at Heathfield House for "ancillary use". The appellant makes clear that what is meant by this is that she wishes to use the caravan as additional living

accommodation associated with the main house rather than use as a separate self-contained unit.

5. In order for an LDC to be granted under section 192 of the 1990 Act, the onus is firmly on the appellant to show that the development would be lawful at the time the application was made.

6. It is undisputed that provided the proposed park home style caravan remains a moveable structure that meets the definition of a "caravan" within the Caravan Sites and Control of Development Act 1960 as amended by the Caravan Sites Act 1968, then it would not constitute a building. Nor is it contested that the proposed siting of the caravan as shown in the submitted site plan would be within the residential curtilage of Heathfield House.

7. The Council proceeded to determine the application with reference to section 55(2)(d) of the 1990 Act. This provides that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such shall not be taken to involve development of the land. In following this approach, the Council analysed the meaning of the word "incidental" from various sources including with reference to an ordinary dictionary definition, online commentary and case law.

8. Specific mention is made of the case of *Emin v SSE*[1] where the Court considered the meaning of "incidental" in the context of permitted development rights for the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such. Similar provision is now contained within Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015. However, the proposal in this instance is not for the provision of a building, but the use of land for the siting of a caravan. Class E does not apply and so references to it and the judgment in *Emin* do not assist in establishing whether residential use of the caravan would be lawful.

9. Moreover, a distinction is to be drawn between an incidental use and uses which are part and parcel of an existing lawful use.

10. The issue requiring consideration is not whether there would be an incidental use as focussed on by the Council. Rather, the crux of the matter is whether or not the proposal would involve a material change of use of land and thus amount to "development" within the meaning of section 55(1) of the Act.[2] Just because the proposed use goes beyond what would ordinarily be regarded as an 'incidental use' does not mean there is a material change of use. For instance, a "granny" annexe, even in a separate building in the curtilage of the "main" dwellinghouse, would normally be regarded as part and parcel of the main dwellinghouse use. If there is no material change of use of the land then there can be no development requiring planning permission.

11. In *Uttlesford DC v SSE & White*[3] the judge considered that, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. In that case the accommodation gave

[1] *Emin v Secretary of State for the Environment and Mid-Sussex County Council, QBD, 1989, 58 P&CR*
[2] For the purposes of section 55, "development" comprises either operations or the making of a change of use.
[3] [1992] JPL 171

the occupant the facilities of a self-contained unit although it was intended to function as an annexe only with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling. A fact and degree judgment has to be made on the specific circumstances of the case.

12. Typically, a caravan will be equipped with all the facilities required for independent day-to-day living. It does not follow automatically that once occupied there must be a material change of use simply because primary living accommodation is involved. Much depends on how the caravan would actually be used, as also set out in Appeal Decision ref: APP/Z3825/X/16/3151264 and commentary referenced in the Council Officer's delegated report.

13. The proposal is for a caravan to be occupied by the appellant's elderly mother who has health issues as outlined in the application. The intention is that care and assistance would be provided as needed whilst allowing the appellant's mother a degree of independence. Meals would be shared in the main house, as would laundry facilities, storage of domestic items and housekeeping. The water and electricity supply would be shared and the caravan would not have its own utility meters. There would be no separate postal address and so all bills would be sent to the house. The caravan would not be registered as a separate unit of occupation for Council Tax purposes.

14. It is clear that there would be a close family and functional link between the uses with the land also remaining in single ownership and control. Use of the caravan in the manner described would not involve physical or functional separation of the land from the remainder of the property. The character of the use would be unchanged. Thus, the use described would form part and parcel of the residential use within the same planning unit. Only if operational development which is not permitted development is carried out or if a new residential planning unit is created, will there be development. From the application, neither scenario is proposed. Accordingly, the proposal would not have required separate planning permission.

15. The Council concluded that the caravan is highly likely to be capable of independent occupation. However, the application must be assessed on the basis of the stated purpose and not what might potentially occur. An LDC can only certify the use applied for. If the caravan is not used in association with the dwelling, as described, and the functional link is severed, then it would not benefit from the LDC.

16. In the circumstances of this case, I find that the siting of a caravan in the garden of Heathfield House for the provision of additional living accommodation as described in the application would, as a matter of fact and degree, have been lawful at the time of the application. My findings in this regard are consistent with the approach taken to the application of the law in the other Appeal Decisions[4] brought to my attention by the parties.

Conclusion

17. For the reasons given above I conclude, on the evidence now available, that the

[4] APP/Z3825/X/16/3151264 dated 28 October 2016, APP/Y0435/X/15/3129568 dated 19 February 2016, APP/K2230/X/13/2190398 dated 18 June 2013, APP/K3605/X/12/2181651 dated 15 April 2013, APP/J1915/X/11/2159970 & APP/P2365/X/09/2109940 dated 6 November 2009.

Council's refusal to grant a certificate of lawful use or development in respect of the siting of a caravan for ancillary use was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

KR Saward

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 26 January 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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 siting of the caravan and its use as additional residential accommodation associated with the main dwellinghouse at Heathfield House, as described in the statement accompanying the application, would be part and parcel of the residential use within the same planning unit and would not constitute development requiring planning permission.

Signed

KR Saward

INSPECTOR

Date 2 November 2017
Reference: APP/A1530/X/17/3177321

First Schedule

The siting of a caravan for ancillary use in accordance with application reference 170191 dated 26 January 2017 and the supporting statement and drawings submitted therewith.

Second Schedule

Land at Heathfield House, West End Road, Tiptree CO5 0QH

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

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The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 2 November 2017

by K R Saward Solicitor

Land at: Heathfield House, West End Road, Tiptree CO5 0QH

Reference: APP/A1530/X/17/3177321

Scale: NOT TO SCALE

