ROCK HOUSE, HIGHER ROAD, LONGBRIDGE, PRESTON, LANCASHIRE, PR3 2TW

SITING OF MOBILE HOME TO PROVIDE ANCILLARY ANNEXE ACCOMMODATION

LAWFUL DEVELOPMENT CERTIFICATE APPLICATION SUPPORTING STATEMENT

Planning Portal Ref: PP-12948576

Introduction

This lawful development certificate application relates to the proposed siting of a mobile home within the garden of an existing domestic dwelling at Rock House on the edge of Longbridge, to the north-east of Preston. The structure would be a single storey two bedroom unit with a sitting and dining area and a home office. It is intended that the mobile home would be used only by the occupiers of Rock House for purposes ancillary to that existing dwelling.

The application seeks confirmation that the proposed mobile home falls within the definition of a 'caravan' as set out in the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. The mobile home would be a timber framed structure with its external walls clad in weatherboard and its roof finished in slates. The structure would be constructed in two halves, with the final act of construction being the fixing of the two parts together on site. The structure would sit on a structural steel chassis resting under its own weight on adjustable concrete pads. The steel chassis would include lifting eyes/hooks to enable the structure to be lifted by crane.

This statement should be read in conjunction with the drawings submitted with the associated lawful development certificate application, including:

- Location Plan at 1:1250 (drg. 92493/01);
- Proposed Block Plan at 1:500 (drg. 92493/02);
- Proposed Elevations at 1:100 (drg. 92493/03);
- Proposed Floor Plan & Roof Plan at 1:100 (drg. 92493/04).

As it is contended that the proposed mobile home falls within the definition of a caravan, it would not be operational development as defined in the Town & Country Planning Act 1990, and therefore would not be subject to planning control or the permitted development

restrictions set out in Class E of Part 1 of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 2015, as amended.

It is a well established principle that when deciding whether or not a structure is deemed to be a caravan or, as in the case under consideration here, a twin-unit caravan, the commonly applied 'size', 'construction' and 'mobility' tests should be considered. Each of these is considered further in this statement below, with reference to appeal decisions or case law where relevant. Copies of all appeal decision letters referred to are included for reference in the documents submitted with this lawful development certificate application. Consideration is also given to whether there would be any material change in the use of the land where the proposed mobile home would be sited.

Legislative Definition of a Caravan

Subsection 29(1) of the Caravan Sites & Control of Development Act 1960 defines a 'caravan' as:

> *Any structure designed or adapted for human habitation, which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, 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.*

Subsections 13(1) and (2) of the Caravan Sites Act 1968 define twin-unit caravans as follows:

> *(1) 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 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 as not having been) a caravan within the meaning of Part 1 of the Caravan Sites & Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.*
>
> *(2) For the purposes of Part 1 of the Caravan Sites & Control of Development Act 1960 (revised October 2006), the expression 'caravan' shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely -*
> *(a) length (exclusive of any draw bar): 65'7" (20.00 metres);*
> *(b) width: 22'3" (6.80 metres);*
> *(c) overall height of the living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (3.048 metres).*

Prior to 1998 there was some debate as to whether mobile homes should or should not be considered as buildings with regard to planning legislation. The issue was settled following the judgement handed down in the case of Measor v Secretary of State for the Environment, Transport and the Regions (1998), where the Judge stated:

> *In my judgement, it would conflict with the purpose of the Act and common sense to treat mobile caravans as 'buildings' as of right. While I would be wary of holding that, as a matter of law, a 'structure' that satisfied the definition of, for example, a mobile home under section 13(1) of the 1968 Act could never be a building for the purpose of the [Town & Country Planning] Act 1990, it seems to me that by reference to the definitions in the [Caravan Sites & Control of Development] Act 1960 and the 1968 [Caravan Sites] Act it is clear that in the present case the caravans lacked that degree of permanence and attachment to constitute buildings.*

Despite the Courts being careful not to state that a caravan or mobile home could never be a 'building', generally they are not. The Measor principle has been restated and reaffirmed in a number of cases since 1998. In 2002, for instance, the Judge in the case of Massingham v Secretary of State for Local Government and the Regions stated:

> *The judgement in the Measor case restated the approach to the definition of a building for the purposes of development control which had been well settled in previous cases including Barvis Ltd v Secretary of State. In acknowledging that it would be wrong to say that a mobile home could never be a building, in this case I am in no doubt that the mobile home fails the tests of permanence and attachment established by the courts.*

<u>Size Test</u>

Drawing no's. 92493/03 & 04 submitted with this lawful development certificate application show that the proposed mobile home, when assembled, would have a length of 18.35m, a width of 6.0m and a maximum internal height from floor to highest ceiling level of no more than 3.02m. The proposal would clearly be smaller overall than the maximum dimensions for a caravan as set out in subsection 13(2) of the Caravan Sites Act 1968 and therefore meets the requirements of the size test.

<u>Construction Test</u>

The proposed mobile home would be constructed from a timber frame with walls clad in timber weatherboard and the roof finished in slates. The components of the timber frame would be prepared, manufactured and cut to size in a factory elsewhere prior to being transported to the site, along with the timbers for the cladding, internal partitions and the roof slates, to then be assembled in two distinguishable parts, with those two parts then being connected as the final part of the construction process. So there would be some prefabrication of the main components off site, but also assembly of two separate sections of the structure on site prior to being connected together.

Subsection 13(1) of the Caravan Sites Act 1968 defines the requirements to satisfy the construction test as simply that the structure is composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices. It has been established through case law and relevant appeal decisions that there is no requirement within the Act for the two sections of a twin unit caravan to each be identifiable as caravans, or capable of habitation, before they are joined together. Equally, the Act does not require the process of creating the two separate sections to take place away from the site on which they are then to be joined together; it is only necessary that the act of joining the two sections together is the final act of assembly.

These principles have been confirmed in relevant appeal decisions, including appeal ref. APP/N1025/C/01/1074589 where the Inspector observed:

> *There is no requirement for the two sections to be each identifiable as caravans, or capable of habitation, before they are joined together (para. 5).*
>
> *A caravan can be delivered to site in many pieces, and there is no requirement in 13(1)(a) that the process of creating the two 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 two sections together should be the final act of assembly (para. 6).*

In another relevant appeal decision ref. APP/B5480/C/17/3174314 the Inspector stated in respect of two halves of a mobile home being constructed on site, adjacent to one another and then finally bolted together, that:

> *There is no requirement that the process of creating the two separate sections must take place away from the land (para.8).*
>
> *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 (para. 10).*
>
> *The Council appear not to have appreciated that assembly can take place on site (para. 12).*

The manufacturing/construction process described above therefore meets the requirements of the construction test.

<u>Mobility Test</u>

Subsection 13(1)(b) of the Caravan Sites Act 1968 states that a caravan is a structure which, when assembled, is physically capable of being moved by road from one place to another. However it also states that such a structure shall not be treated as not being a caravan by reason only that it cannot lawfully be so moved on a highway when assembled. There is no requirement in the legislation for the mobile home to move on its own wheels; it is merely

sufficient that the unit can be picked up intact or, in the case of a twin unit mobile home, as a whole and put on a lorry by crane or hoist. How difficult it is for that lorry to then reach the road, or the legality of actually transporting the load along the road, is irrelevant to the consideration of the mobility of a structure classified as a caravan under the Act.

Again, these principles are established through appeal decisions and case law. For instance in considering appeal ref. APP/N1025/C/01/1074589 the Inspector commented:

> *To fall within this definition [subsection 13(1)(b)] 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 [the appeal property] 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 (para. 7).*

Brightlingsea Haven Ltd & another v Morris & others (2008) held:

> *It is irrelevant to test where the structure actually is, and whether it may have difficulty in reaching a road.*

Furthermore, in considering appeal ref. APP/J1915/X/11/2159970 the Inspector concluded:

> *The test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle… A lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most 'static' caravans on any lawful caravan site (para. 5).*

The proposal would sit on a structural steel chassis with timber cross members, designed to support the weight of the mobile home structure. The type of chassis structure proposed is illustrated in the photographs below. The chassis would be fitted with lifting eyes designed to allow for the attachment of lifting straps/rig so that the whole mobile home structure can be lifted by its chassis base using a crane and placed onto a flatbed lorry for transportation.

On site the mobile home and its chassis base would rest under its own weight on adjustable concrete pads, again illustrated in the photographs below. The concrete pads would sit on the ground, so there would be no permanent foundations and no excavation works beyond stripping back grass and any unwanted vegetation to provide a level area.

Illustration of proposed structural chassis construction including timber cross members.

Illustration of proposed structural chassis construction including concrete support pads.

Illustration of proposed structural chassis construction including lifting eyes.

The proposed mobile home would be connected to services but, as is the case with any other static caravan connected to services, this does not preclude the proposal being classified as a caravan under the Act. In considering appeal ref. APP/L5810/X/15/3140569 the Inspector commented:

> *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 (para. 17).*

So as a structure with no permanent attachment to the ground, and capable of being lifted and moved by road, regardless of the difficulty of reaching the road or the legality of moving the load on the road, the proposal meets the requirements of the mobility test.

Material Change of Use

From the above it is clear that the proposed mobile home meets the commonly accepted tests for being classified as a caravan under the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. It is therefore not operational development. It must still, however, be considered whether there is any material change in the use of the land on which the mobile home is to be sited.

As described in the introduction to this statement above, the proposed mobile home would be used and occupied by the family who occupy the main dwelling at Rock House, specifically as additional bedroom and occasional guest bedroom accommodation for family and visiting friends/relatives, an additional sitting and dining area from which to enjoy the garden to the dwelling, and for domestic storage purposes. A home office would also be provided for home working.

No separate self-contained accommodation is proposed that would be independent to the main house. The use proposed is wholly ancillary to the main house. The proposed mobile home would have no separate address, post box, utility meters, services, parking, garden area/curtilage or access.

The proposed use of the mobile home would therefore remain ancillary to the main house. Issues surrounding the ancillary nature of domestic annexes and outbuildings have been explored through appeal decisions and case law. For example in Uttlesford District Council v SoS & White (1991) it was held that although an annexe contained all the facilities for day-to-day domestic existence and was capable of being used as a separate dwelling house, this did not mean that it had been so used. Factors of significance were the lack of separate utility meters, postal address and telephone line, as well as the lack of any separate curtilage or access arrangements.

In considering appeal ref. APP/L5810/X/15/3140569 the Inspector commented:

> *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… 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 (para. 19).*

Furthermore the land on which the proposed mobile home would be sited is, and always has been, used as part of the garden land associated with the main dwelling at Rock House.

It is laid to grass which is mowed and maintained as garden lawn, and falls within the domestic curtilage closely associated with the main house both visually and functionally.

Therefore the proposed mobile home would be used for purposes ancillary to the domestic residential use of the main house and would be positioned on land which is part of the domestic garden to the main house. There would be no material change in the use of the land where the proposed mobile home would be sited.

Conclusions

The proposed mobile home is a structure which would be assembled in two distinct sections, with the final act of assembly being the joining of the two sections together on site. It would not sit on permanent foundations but would be supported on a structural steel chassis, meaning that it would be moveable within the site and by road. The proposed structure would also be no larger than the maximum dimensions for a caravan permitted under the Caravan Sites Act 1968.

The proposed mobile home would be used for purposes ancillary to the domestic residential occupation of the main house to which it would relate, and would be sited within the existing residential garden of the main house.

As such the proposal can be classified as a 'caravan' under the definitions of the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. Under the principles established through Measor v Secretary of State for the Envionment (1998) the proposal is not a building for the purposes of the Town & Country Planning Act 1990; it would lack the degree of permanence and attachment necessary to be considered as such. There would therefore be no operational development requiring planning permission. Furthermore the proposal would not result in the change of use of land requiring planning permission.

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 Mr R Brentnall against an enforcement notice issued by Erewash Borough Council.
- The Council's reference is ENF/01/254 P2337.
- 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 Mr R Brentnall 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 23 November 2011

by Martin Joyce DipTP MRTPI

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

Decision date: 7 December 2011

Appeal Ref: APP/J1915/X/11/2159970
4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire CM21 0RL

- 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.
- The appeal is made by Mrs K Green against the decision of the East Hertfordshire District Council.
- The application, Ref: 3/11/0954/CL, dated 27 May 2011, was refused by notice dated 18 July 2011.
- 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 use of part of the established residential curtilage on which to station a mobile home for purposes incidental to the existing dwelling.

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 in this appeal is whether the proposal would constitute operational development or a material change of use of the land.

Reasoning and Appraisal

2. The appellant wishes to site a "Homelodge" mobile home within the residential curtilage of her house, as ancillary accommodation for her elderly parents. The unit would measure 8.45m in length, 3.85m in width and 2.2m/3.2m in height, to the eaves/ridge. It would be delivered to the site on a lorry and would be capable of removal in the same way. It would not be permanently fixed to the ground, but would be connected to services.

3. The Council accept that the dimensions of the structure could fall within those set out for a twin unit caravan in the statutory definition given in the Caravan Sites Act 1968 as amended[1] (CSA), but they consider that its size, permanence and physical attachment would be such that the siting of the unit would be operational development as defined in Section 55 of the Act, rather than a use of the land. In particular, they contend that the determining factor is whether or not the structure is of a design or size that would make it readily mobile around the site. In this context, its size, degree of permanence and impact on

[1] Sub section 13(2) as amended by The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 (SI 2006/2374).

the character of the site lead to the conclusion that operational development would occur. Furthermore, the Council cite two items of case law, and refer to previous appeal decisions, to support their contentions in this respect.

4. In consideration of the above matters, I note at the outset that the Council do not dispute that the mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse as such, notwithstanding that occupiers of the mobile home would have facilities that would enable a degree of independent living. The appellant's claim that it would be akin to a "granny annexe" is not therefore at issue, only the question of whether the proposal would be operational development or, as is normally the case, a use of the land.

5. Neither of the cases that the Council rely on relates to the siting of mobile homes or caravans, rather they concern other structures such as a wheeled coal hopper[2] and a tall mobile tower[3]. Similarly, the three appeal decisions referred to by them concern the siting of portacabins on land and whether that is operational development or a use of land. I can, therefore, give little weight to these cases and decisions in my determination of this appeal as they do not concern the siting of caravans or mobile homes and are, thus, materially different development. Additionally, I consider that the Council are misguided in their statement that the determining issue is whether the mobile home would be readily moveable around the site. That is not the correct test; rather the test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle[4]. In this case, the appellant's statement that this would be the case has not been contradicted. A lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most "static" caravans on any lawful caravan site.

6. The size of the proposed mobile home falls well within the dimensions set out for twin units in the CSA as amended, notwithstanding that it is not specified as a "twin unit", but it appears that the Council consider that its positioning would create a degree of permanence and impact on the character of the site. Impact on character is also of no relevance in a case where the lawfulness of a use is at issue, but the question of permanence is a matter of fact and degree that relates to physical attachment to the ground.

7. In this case, the mobile home would be placed on padstones and is likely to be attached to services such as water, drainage and electricity, although the precise services are not specified in the application. However, attachment to services is not the same as physical attachment to the land, as they can easily be disconnected in the event that the caravan needs to be moved. Additionally, the placing of the mobile home on padstones, or another sound and firm surface, is not, in itself, a building operation as suggested by the Council, notwithstanding that a degree of skill is required in such placement. I know of no support in legislation or case law for such a proposition and the provision of a hard surface within the residential curtilage would, subject to certain limitations, be permitted development under Class F of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 as amended. The Council are, therefore, incorrect in this instance in their interpretation of the permanence of the mobile home as an indication of operational development rather than a use of the land.

[2] *Cheshire CC v Woodward* [1962] 2 QB 126
[3] *Barvis Ltd v Secretary of State for the Environment* [1971] 22 P&CR 710
[4] *Carter v Secretary of State* [1995] JPL 311

8. I conclude that the proposed development would not constitute operational development, rather it would involve a use of land. As that use would fall within the same use as the remainder of the planning unit, it would not involve a material change of use that requires planning permission.

Other Matters

9. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main issue of this appeal.

Conclusions

10. 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 use of part of the established residential curtilage for the stationing of a mobile home for purposes incidental to the existing dwelling 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

11. 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.

Martin Joyce

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 27 May 2011 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use would be incidental to the residential use of the planning unit and would not constitute operational development for which a grant of planning permission would be required.

Signed

Martin Joyce
Inspector

Date: 07.12.2011
Reference: APP/J1915/X/11/2159970

First Schedule

The use of part of the established residential curtilage on which to station a mobile home for purposes incidental to the existing dwelling.

Second Schedule

Land at 4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire CM21 0RL

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the Local Planning Authority.

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

The Planning Inspectorate

Plan

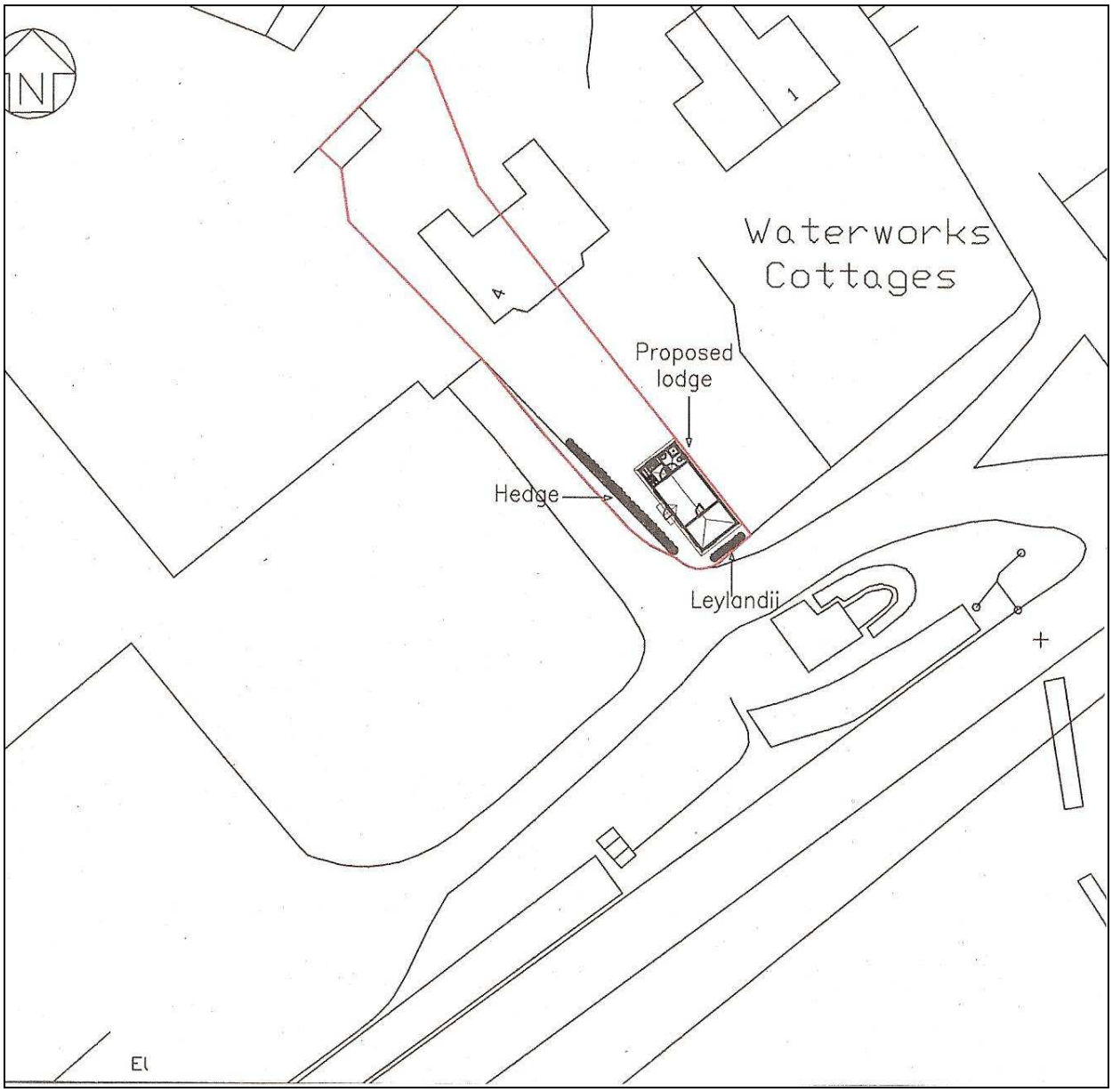
This is the plan referred to in the Lawful Development Certificate dated: 07.12.2011

by Martin Joyce DipTP MRTPI

Land at: 4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire CM21 0RL

Reference: APP/J1915/X/11/2159970

Scale: Not to scale



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