Development Control – Delegated Officer Report

Application Number: AWDM/0720/25 Recommendation: Approve

Site: 27 Hadley Avenue, Worthing

Proposal: **Application for a Lawful Development Certificate for proposed annex in rear garden for use by family member**

Date of site visit: 29.07.2025

Neighbours checked: N/A

Additional neighbour notifications: N

Site and Surroundings

The application site relates to a two storey mid-terrace dwelling located on the west side of Hadley Avenue. This is a predominantly residential area comprising of a mix of dwelling types and designs in the immediate locality. The house has been extended to the rear with a single storey conservatory. There is a small shed within the rear garden. A twitten to the south side of No.25 provides pedestrian access along the rear boundary of this terrace.

Proposal

The application is for a Lawful Development Certificate that seeks to establish whether the proposal is operational development or constitutes a change of use of the land (as defined by Section 55 of the Town and Country Planning Act 1990) requiring planning permission. As such, the planning merits of the proposal are not a consideration in this instance. The onus is on the applicant to demonstrate that the proposal would be lawful, with the relevant test of evidence being on the balance of probability.

The proposal is described in the application form as a pre-fabricated L-shaped portable granny annexe formed of two bolted together units. It would measure 7.58m (length) x 5.18m (width) x 2.5m (height), and with an internal floor to ceiling height of 2.082m. As indicated on the drawings, it would be sited at the rear (western) end of the rear garden with its longest side adjacent to but set in from the western boundary.

The application form confirms that a concrete shed has already been removed prior to the submission of the current application.

The applicant has stated that the unit would be occupied by the applicant's mother, incidental to the use of the main house, to provide privacy whilst also sharing the main house facilities which itself would be adapted to provide some accessible facilities for the applicant's mother including a stair lift and accessible bathroom. The applicant has clarified that the annexe is designed to allow the applicant to provide help and support 24/7 if needed while still preserving independence. The applicant's mother would take meals with the family and would have use of a full bathroom and laundry facilities in

the main dwelling.

The submitted floor plan shows the proposed annex containing one bedroom, kitchen/living room, and shower room with wc, The applicant has clarified that the garden would remain open and shared. Electrical services and water supply/drainage would be connected with all services being capable of being removed when required.

The application form indicates that the structure would be partially supported by an existing concrete base and with jacks/supports for the remained to allow simple removal if required.

The applicant has provided an example of typical installation showing 2 sections manufactured offsite and delivered on a lorry and craned into position placed on a concrete base and pads and the 2 sections/bays bolted together on site. Further confirmation has been provided to clarify that there are no fixed foundations used. A video has also been provided by the applicant to show that when assembled this unit type is capable of being craned and removed from site by lorry as one complete unit using a supporting frame. The structure can be removed from site when no longer needed.

RELEVANT LEGISLATION:

The Town and Country Planning Act (1990) Section 55 Meaning of 'Development' comprises of two elements:

a) Operational Development being "the carrying out of building, engineering, mining or other operations in, on, over or under land"

or

b) "the making of any material change in the use of any buildings or other land."

Caravan Sites and Control of Development Act 1960 (1960 Act) – Section 29 (1) – Definition of a Caravan, as follows:

"... 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."

The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006.

The Caravan Sites Act 1968 - Section 13 (1) – Definition modified (twin-unit caravans) provides that:

"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."

Section 13(2) of the 1968 Act (amended October 2006) – Prescribes the following maximum dimensions for "twin unit caravans":

(a) length (exclusive of any drawbar); 20 metres;
(b) width: 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): 3.05 metres.

Planning Assessment

The planning merits of the proposal are not under consideration as this is an application for a Certificate of Lawfulness. Matters relevant to the Certificate of Lawfulness are considered in the assessment below.

The legal tests in this instance are related to, firstly, whether the proposed structure constitutes 'operational development'. Secondly, whether the use of the land is incidental to the use of the dwelling house and therefore would not constitute the creation of a new planning unit, i.e. "the making of any material change in the use of any buildings or other land" (Section 55 Town and Country Planning Act 1990).

Permanent caravan sites (including the placement of just one "caravan") require both planning permission and a licence granted under the Caravan Sites and Control of Development Act 1960. Schedule 1 of the Act provides a number of exemptions, including at paragraph 1 – use within curtilage of a dwellinghouse.

The Planning Encyclopaedia at para RB-2088.2 confirms that the use of a caravan within the curtilage for purposes incidental to the enjoyment of the dwellinghouse falls within the primary use of the dwelling house and does not require separate planning permission.

The issues are therefore:

I. Whether the proposed structure falls within the definition of a caravan in terms of its size and transportability (which includes assessment of whether it is connected to the ground, connected to services and can be transported by a single vehicle when fully assembled).

2. Whether the siting of the proposed structure would result in the creation of a new planning unit (a matter of fact and degree in terms of whether its use retains a functional link with the dwelling, 27 Hadley Avenue and is capable of providing living accommodation that can accommodate the requirements of day to day living

independently).

Operational Development

It is first necessary to establish whether the proposal constitutes a ‘building operation’ and in doing so, therefore necessary to consider whether the structure is a ‘caravan’ for the purposes of the Caravan Sites Act 1960. The definition of caravan is provided in section 29(1) of the Caravan Sites Act 1960 as follows:

"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- (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent

Excluded from this definition is a “twin-unit caravan” which is later defined under the Caravan Sites Act 1968 as follows.

Twin-unit caravans.

(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 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 as not having been) a caravan within the meaning of Part I of the Caravan Sites and 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 I of the Caravan Sites and Control of Development Act 1960, 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 drawbar): 20 metres

(b) width: 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): 3.05 metres

The plans and supporting information submitted for this application confirm that the length, width and internal height of the proposed structure would be within the limits set out in the Caravan Sites Act 1968 Amendment Order (2006).

The Caravans Regulations allow for a mobile home to be delivered to a site in smaller parts but it will then need to be assembled either as a single bay unit or, if it is a twin-unit, as two parts before being finally joined together. Provided the definition of a caravan/mobile home is adhered to then a building is not being proposed.

In this case the applicant has provided photographic evidence of an L-shaped unit arriving on site via a lorry as two sections/bays and being lifted into position by a crane to rest on concrete pads and bolted together in two places which the applicant states is the 'final act of assembly'. The bolts straddle the two sections.

The applicant has stated that there would be no fixed foundations, and the supporting information confirms that the structure would rest on the existing concrete base and on concrete pads. Only services would be connected and can be removed and the land reinstated when no longer required.

One of the key factors under the legislation is that the structure is capable of being moved by road when assembled, regardless of whether the applicant goes on to transport the unit as one or as two or more sections.

Video evidence has been provided of a similar L-shaped unit being lifted by crane onto a lorry as one complete unit using a supporting frame. Although access to the site is limited by the nature of the property within a terrace block, positive confirmation has been provided to show that this unit type is nevertheless capable of being transported as one complete unit and therefore a 'caravan under the relevant legislation.

In view of the above it is considered that the proposal would not constitute 'operational development' and is therefore not a building requiring planning permission but is a 'caravan' under the relevant legislation.

Use of the Land

The structure would be sited within the residential curtilage of the site at No.27 Hadley Avenue. The applicant is the occupier of the dwelling at No.27 and it is intended that the applicant's mother would occupy the proposed annexe. There would be no physical separation or subdivision of the curtilage with the amenity space remaining open and shared. It is understood that there would be free movement and use of both the main house and the annexe by the applicant's mother.

The relevant exemption from having to obtain planning permission for a caravan requires that the use of the caravan is 'incidental' to the enjoyment of the main dwellinghouse.

The applicant has confirmed that the annexe would be occupied in conjunction with the main dwelling on the basis of providing incidental accommodation for the applicant's mother. The applicant has stated that the annexe is required to provide

help and support to the applicant's mother when needed. The applicant's mother would share facilities within the main house including the use of a full bathroom and laundry facilities, and would take most meals with the family within the house.

An annexe is defined as accommodation ancillary to the main dwelling within a residential curtilage. In order to meet the tests (in planning terms) of being part of the same planning unit an annexe must share the same access; parking area and garden and be in same ownership as the principal dwelling. All of these requirements are met by this application.

The proposed annexe could co-exist and function alongside its neighbours with no connection and little impact on 27 Hadley Avenue due to the facilities that are provided within. Therefore, in this instance, the question of whether the proposed use is lawful lies heavily on how the proposed mobile home would actually be used in relation to the parent building and whether this use is incidental.

The High Court Case *Whitehead v Secretary of State of the Environment and Mole Valley District Council (1992)* the Deputy Judge concluded that planning permission would not be required for use of a building as ancillary for use by a housekeeper stating:

'It mattered not, whether this building, as converted happened to include its own kitchen and bathroom'.

The above was referred to in a later appeal decision against a refusal to grant a LDC for a mobile home within the curtilage of a dwelling house to provide ancillary staff accommodation (*Sandy Holt, 9 Black Hills APP/K3605/X/12/2181651 15th April 2013).*

In another case *(27 Elmfield Avenue, Teddington APP/L5180/X/15/3140569)*, where the appeal involved a 'Homelodge' mobile home for parents where the son and daughter in law would occupy the main house and provide care, it was deemed that a completely separate self-contained dwelling use was not being provided as there would be sufficient connection and interaction between the mobile home and main house.

In *Uttlesford District Council v Secretary of State for the Environment and White [1992]*, it was held that the conversion of a garage in a residential curtilage to a granny annexe had not resulted in a material change of use, despite it including facilities that enabled the occupier to live independently. The general approach of the Courts is that it is the actual use of a mobile home that is determinative rather than its potential to be occupied as a self-contained residential unit. It is thus an established principle in planning case law that additional living accommodation, whether by conversion or a mobile home can be incidental to a principle dwelling even if capable of semi-independent occupation. So, permission is not required for a mobile home in such circumstances.

In this case the supporting information indicates that there will be a close link between the annexe and the main dwelling, with its occupants providing care for the applicant's mother, taking meals together, using laundry facilities and sharing the bathroom in the main dwelling. As the structure would be sited within the curtilage of the principal

dwelling with a close functional link and sharing the residential occupation and enjoyment of the principal dwelling and reliance between family members for support with day to day living, it will not function as a separate dwelling. On this basis, the use of the annexe would be incidental to the enjoyment of the main dwelling house.

The only concern is then whether use of the mobile home in this manner would be upheld. However, an LDC can be revoked in certain circumstances, and it is a criminal offence to make a false or misleading statement, which provides some comfort in terms of the use of the annexe. For example, if it becomes clear that the annexe was used by someone other than a family member, then there may be options available to the Council to take enforcement action. The nature of the use and the specifications of the mobile home itself combine to allow the lawful development certificate to be issued in this circumstance; any change to the details contained in this proposal could deem it to unlawful at any time.

Conclusion

The proposed structure falls within the definitions of a 'caravan' as stated in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. Having taken into account it's proposed 'permanence' and 'attachment' the stationing of such a structure within the curtilage of a dwelling does not fall within the definition of 'operational development' *(being "the carrying out of building, engineering, mining or other operations in, on, over or under land"),* because it is not fixed to the ground and is capable of removal when no longer needed by the family occupying the main dwelling. The use of the proposed annexe would be incidental to the enjoyment of the dwelling house at 27 Hadley Avenue due to the functional relationship between the granny annexe and the main dwelling, as confirmed by the supporting information provided. As such, the proposal does not amount to development requiring planning permission and the LDC can be granted.

Recommendation: Issue Certificate

Reasons for Recommendation

The proposed siting of a structure within the curtilage of the dwelling house and its use as an annexe, in accordance with the terms described in the application, supporting plans and additional information provided in support of the application, does not constitute development requiring planning permission and is lawful within section 192 of the Town and Country Planning Act 1990 (as amended).

Informative

1. The certificate of lawfulness hereby permitted is subject to the structure being installed, maintained and used in accordance with the submitted details and being capable of being transported by road when assembled.

Case Officer: Rebekah Hincke Date: 08.09.2025

Authorised by: Louise Prew Date: 09/09/2025