Development Management - Delegated Officer Report

Application Number: AWDM/0143/20 Recommendation: Issue Certificate

Site: **46 Old Shoreham Road, Lancing, West Sussex**

Proposal: **Application for a Lawful Development Certificate for proposed stationing of mobile home to be used incidental to the main dwelling.**

Site Visit: 23.03.20

Proposal, Site and Surroundings
The application site relates to a semi detached chalet bungalow located on the south side of Old Shoreham Road near the Lancing Manor roundabout. The property has a large rear garden which wraps around the rear of the adjacent dwellings, nos. 48, 50 and 52 Old Shoreham Road. There is a water channel running across the rear garden area. This is a predominantly residential area comprising of mainly similar bungalows directly around the site. There is a garage to the side of the bungalow and an existing wooden outbuilding.

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 proposal is for a mobile home measuring 11.3m (length) x 3.9m (width) x 3.5m (height), and with a maximum internal floor to ceiling height of 3.03m. It would be sited along the southern boundary of the site.

The applicant's agent has stated that the unit would be occupied by the applicant's father. The agent states that the applicant's father would occupy the mobile home in conjunction with the family occupying the main dwelling at 46 Old Shoreham Road on the basis of providing incidental accommodation for the applicant's father, for support and companionship in his later years.

The planning statement goes on to say that the applicant's father would occupy the mobile home as his living accommodation but with his daughter close at hand for support. The applicant's father would share the residential occupation and enjoyment of the principal dwelling and spend time with his family each day including for meals and socialising.

There would be no division of curtilage, and amenity space would be shared. Other facilities such as laundry would also be provided by the main dwelling.

The submitted floor plan shows one bedroom, kitchen/lounge and a shower room. On the face of it, this space is capable of functioning as a separate dwelling.

RELEVANT LEGISLATION:

The Town and Country Planning Act (1990) Section 55 Meaning of 'Development' and 'New Development'

Caravan Sites and Control of Development Act 1960 (1960 Act).

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

The above Act specifies that, in summary, a twin unit caravan is a structure designed for human habitation which is not of more than two sections and can be assembled on site. When assembled it should be capable of being moved by road, either by being towed or via a trailer by a single vehicle. The maximum dimensions of a 'caravan' as defined by the Act are as follows: Length – 20 metres; Width – 6.8m; Height – 3.05m measured internally from the floor at the lowest level to the ceiling at the highest level.

Representations – none received or sent

The planning merits of the proposal are not under consideration. Matters relevant to the certificate of lawfulness are considered in the assessment below.

Planning Assessment

The legal tests in this instance are related to, firstly, whether to the proposed mobile home is '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 the dwelling house and does not require separate planning permission.

The issues are therefore:

I. Whether the proposed mobile home 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 mobile home 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, 46 Old Shoreham Road and is capable of providing living accommodation that can accommodate the requirements of day to day living independently).

Legal advice has been sought in relation to these matters and has been considered in this assessment. The bulk of this advice is integrated below: -

Section 29 of the Caravan Sites and 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;

Section 13 of the Caravan Sites Act 1968
States that to be classed as a caravan
The structure must not measure more than 20 m in length, 6.8 m in width and the overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) must not be more than 3.05m
The structure must be 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
The structure when assembled must be 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.

Section 57(1) Town and Country Planning Act 1990
States that planning permission is required for the carrying out on land any development.

Section 55 (1) Town and Country Planning Act 1990
Defines development as the “carrying out of building, engineering, mining or other operations in, on, over or under the land, or the making or any material change in the use of any buildings or other land”

Section 55(2)(d) Town and Country Planning Act 1990
states that the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house is not taken for the purpose of the act as to involve development.

The General Permitted Development Order 2015
Is effectively a national grant of planning permission giving deemed planning permission for certain development without having to make a formal application for planning permission.

Mobile Home at 46 old Shoreham Road
The issue in this case is whether or not the placing of a mobile home in the rear garden of 46 Old Shoreham Road, Lancing either

1) requires planning permission or
2) is a caravan whose purpose is ancillary to the main dwelling and a certificate of lawful development can be issued.

In the case of Measor v Secretary of State (1998) it was held that the approach to the definition of a "building" should be considered as a matter of fact and degree in the light of factors such as size, permanence, physical attachment and composition by components. It was held that generally a mobile caravan would not satisfy that definition having regard to factors of permanence and attachment. The Judge considered the definition of a caravan and found that this required consideration as to whether a particular structure was mobile or potentially mobile in the context of the relevant legislation.

A mobile home is essentially a caravan, a structure that is designed for someone to live in that can be moved around the site if required.

A caravan / mobile home may be parked on the drive or in the garden of a dwelling, provided it is being used as though it were part of the house (like an extra bedroom) by members of the immediate family or by friends occasionally. It cannot be used as a separate dwelling or hired out (for example for holidays).

If it is to be used as a separate dwelling this would constitute a change of use and a planning application should be made.

If the functional link between the dwelling-house and the proposed mobile home are severed and the proposed mobile home is to be used for independent living then planning permission will be required as it will be a material change of use of the land.

The courts have held that it is the actual use of the caravan that is the determining factor to decide whether permission is needed rather the nature of its facilities giving potential to be occupied as a self-contained residential unit.

In addition there must be no new access to the road and the existing access must not be altered.

In this case Mrs Morris has stated that the mobile home is to be used by her father who is elderly and in need of support. She has explained why her father needs care from his family. She has provided a statement confirming this. In addition the laundry is to be done from the main house. It is not proposed that her father will live independently in the caravan. Therefore I consider that the proposed mobile home passes the use and function test.

It is also necessary to establish whether the proposal constitutes a 'building operation' and in doing so, therefore necessary to consider whether the mobile home 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 M1Caravan 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 supporting information provides that the length and width and internal height of the proposed mobile home would be within the limits set out in the Caravan Sits Act 1968 Amendment Order (2006) and that it would be fitted with metal shoes resting on padstones.

The applicant states that the unit would not be permanently fixed to the ground, it is also stated that a skirt is added to the Homelodge Unit for aesthetic purposes only and as shown on the submitted Section drawing is not fixed to the ground. Only services would be connected (with utility services shared) and would not be provided with its own curtilage or a separate postal address.

The Planning Statement states 2 options as to how the mobile home would be delivered to site both state that it is 'capable of being moved by a single motor vehicle or trailer and/or crane.' A Letter dated 27th January 2020 from Homelodge Limited states the two options.

> *Option 1 would be to assemble Bay 1 and Bay 2 units in their factory and deliver them to site as two separate sections by low loader. These sections would be craned into the rear garden with the final act of assembly being bolting the two units (bays) together. See attached photograph of a similar sized unit being delivered to site in this way.*
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> *Option 2 would be the preferred method to deliver Bay 1 and Bay 2 in sectional form to the site by lorry and assemble each bay on site independently of each other, which is in line with well-established appeal cases (examples attached) where the unit is delivered in sectional form and assembled on site in two bays with the final act of assembly being bolting the two bays together. Once constructed the unit can be lifted in one piece or unbolted and lifted in two separate sections..*
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> The key factor under the legislation is that the mobile home 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. An image has been provided by the applicant which shows the mobile home being transported as one single (or two) units.

The supporting information confirms that the mobile home would be in situ as long as is necessary to meet the needs of the family occupying the main dwelling. This does not mean that the unit will remain permanently. In the circumstances of this case, as the applicants father ages there is likely to be an increasingly dependant relationship between the father and the applicant in the main dwelling house, and may remain so for some time. Yet the applicant's statement goes on to say '*When it is no longer needed it can just as easily be disconnected from utilities and removed from the site. Given this mobility and the fact that it is a pre-constructed unit, there is no doubt that there is a second hand market for such units when they have served their purpose in one* location.'

In view of the above it is considered that the proposal would not constitute operational development.

In line with that stated above legal advice is given which considers the size, mobility and construction of the proposed mobile home.

To be classified as a caravan the mobile home must not measure more than 20 m in length, 6.8 m in width and the overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) must not be more than 3.05m

From the plans submitted the proposed mobile home will be 11314 in length, at the widest (including roof overhang) 4090 without overhang 3906 and the

internal height will be 3027. The proposed size therefore is smaller than the largest size allowed to be classified as a caravan.

It is understood that the proposed mobile home is a twin unit that will not be attached to the ground or hardstanding. It will be fitted with metal shoes that will rest on pad stones and not be bolted or fixed to the pad stones. There is also proposed a timber strip forming a skirt that will again not be fixed to the ground and is proposed for aesthetic reasons.

Returning to the case of Measor (as above) the issue is whether the mobile home remains mobile or potentially mobile. It has been confirmed that the mobile home will not be permanently fixed, and that it can be removed when no longer required.

In relation to the proposed skirt even though it has been confirmed this will not be fixed to the ground the Planning Inspectorate Appeal Decision APP/B3410/C/10/2137512 Town End Farm 20 July 2011 is also helpful in this case. Here a concrete slab had been laid and a twin unit mobile home brought to the site, a brick plinth (or skirt) had been built below the whole unit to exclude vermin but part had been removed to allow inspection of the underside and service connections, electricity was supplied by underground cable, there was a bottled gas supply and piped water with drainage to a septic tank. In addition a brick entrance porch with a cavity wall butted up against the wall of the mobile home. Here the planning inspector found that the plinth and porch could be removed without damaging the mobile home and they had not led to the formation of a permanent building. The mobile home could still easily be moved and was not operational development.

As it is proposed that neither the mobile home nor timber skirt around it will be fixed to the ground and as the services are to be run from the house - separate services are not installed it appears to me therefore that the mobile home will not be permanent and will meet the mobility test. Even if it is in situ for several years it is not of a construction that will last in the same way as a brick built building and it is therefore considered that this proposed mobile home would not be a permanent structure.

Therefore, this proposed mobile home would appear to be a caravan within the required definition which would not require planning permission.

The area where the mobile home is to be sited is within the residential curtilage of 46 Old Shoreham Road, Lancing. The site will be shared, there will be no physical separation, all amenity space will be shared, there will be free movement and use of both the main house and the mobile home by the applicant's father and the applicant.

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's supporting statement has confirmed that:

- *The mobile home would be occupied in conjunction with the family occupying the main dwelling on the basis of providing incidental accommodation for Mrs Morris' father.*
- *The applicant's father would occupy the mobile home as his living accommodation and his daughter and family would be close at hand to support him.*
- *would spend time with his family in the main house each day including for meals and socialising.*
- *Laundry facilities would be shared with the main dwelling.*

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. This is the case here.

Historically, appeal decisions have generally interpreted the above definition strictly. It has been held that an annexe should be used for additional use only, in connection with the running of the main house. A building which contains all the facilities for day-to day living as a separate dwelling, i.e. living room, kitchen, bathroom and bedroom is physically capable of functioning on its own and, in turn could be occupied by a stranger with little impact on the inhabitants of the main dwelling, would require planning permission.

The proposed mobile home could co-exist and function alongside its neighbours with no connection and little impact on 46 Old Shoreham Road due to the facilities that are provided within the mobile home. 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.

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 more recent 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 at 27 Elmfield Avenue, Teddington (APP/L5180/X/15/3140569), this appeal involved another '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 terms of the proposed mobile home at 46 Old Shoreham Road, the level of

the accommodation provided and the physical separation between it and the main dwelling, mean that it could function on its own with some ease.

Although the supporting information does not make a clear case that the applicant's father is a dependant in that there is not, at the present time, a total reliance by the father, on the applicant for day to day living needs, the supporting information indicates that there will be a close link with the main dwelling and its occupants at the immediate time in terms of the sharing of household activities, taking meals together, socialising, and using laundry facilities in the main dwelling. Companionship and support are important factors in this case.

Given that the mobile home would be sited within the curtilage of the principal dwelling, would share utility services with the principal dwelling, would not be provided with its own curtilage, and the occupier would have a close functional link with the occupiers of the principal dwelling, would share the residential occupation and enjoyment of the principal dwelling and there would be an inter-reliance between the family members for support for day to day living needs, the applicant is effectively stating that it will not function as a separate dwelling. On this basis the use of the mobile home would be incidental to the enjoyment of the main dwelling house.

The concern is then whether use of the mobile home in this manner would be upheld.

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 mobile home. For example, if it becomes clear that the mobile home was used by someone other than the father of the applicant, 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

Having taken into account it's proposed 'permanence' and 'attachment', the proposed structure would not fall within the definition of a building operation, The proposed Homelodge mobile home would be a caravan in planning terms, as interpreted by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. The use of the proposed annexe would be incidental to the enjoyment of the dwelling house, if carried out in accordance with the information provided in the applicant's Planning Statement. As such, the proposal does not amount to development requiring planning permission and the LDC can be granted.

Of note

Although not matters to affect the consideration of the Lawful Development Certificate it should be noted that there is some concern in relation to the water course across the rear garden. There is currently a small bridge which will need to be crossed to access the proposed mobile home from the main house and vice versa. The applicant has advised that they will be fitting a

hand rail to ensure safety when crossing for all family members. The applicant has also been advised that suitable lighting will be necessary here to ensure safety at all times for occupants. It is advised that installation should take place prior to occupation of the mobile home which is the subject of this application.

RECOMMENDATION:

Permit Lawful Development Certificate.

REASONS FOR RECOMMENDATION:

The proposed siting of a mobile home within the curtilage of the dwelling house and its use as a granny annexe, in accordance with the terms described in the Planning Statement and additional supporting information accompanying 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).

Informatives

1. The certificate of lawfulness hereby permitted is subject to the mobile home being installed, maintained and used in accordance with the submitted details, including the accompanying Planning Statement, Drawing numbers HA-PLLP-OPT1, HA-PLBP-OPT1, HA-PLBAY-OPT1, HA-PLEL-OPT1, HA-PLPL-OPT1, HSBMH received 27th January 2020, and being capable of transportation by road when assembled and installation in accordance with Letter of clarification from 'Homelodge' dated 27th January 2020.

2. You are advised to contact the Council's Building Control department with regard to the construction of the mobile home to check whether Building Regulations approval is required.

3. You are advised that for the safety of all family members, prior to the occupation of the mobile home, safety hand rails and lighting should be installed on the bridge crossing at the application site and should remain in place at all times.
4. You should be aware that the site is within an area at risk of flooding and you are strongly advised to incorporate flood resilience and resistance measures to protect future occupants of the mobile home. Further advice can be found at the following link:

   https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings

Case Officer: Hannah Barker Date: 16th April 2020

Authorised by: Peter Barnett Date: 16 April 2020