Expiry Date - 17/11/2023

Development Control – Delegated Officer Report

Application Number: AWDM/1195/23 Recommendation – APPROVE

Site: 149 Ringmer Road Worthing West Sussex BN13 1DX

Proposal: Application for a Lawful Development Certificate for proposed siting of a caravan for incidental use to the main dwelling.

Site Visit- 03.10.23

Site and Surroundings

The application site relates to a semi detached two storey house located on the west side of Ringmer Road. The property has a paved driveway to the frontage with a long garden to the rear which contains a number of outbuildings. The property is surrounding by residential development with varying boundary heights and structures.

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 as amended) requiring planning permission. As such, the planning merits of the proposal are not a consideration in this instance.

The proposal is for a caravan measuring 11.216m (length) (max) x 6.249m (width) (max) with an internal floor to ceiling height of 3m. It would be sited in the north west corner of the site.

The applicant's agent has stated that the unit would be occupied by the applicant's mother. The agent states that the applicant's mother who due to advancing age requires the care and support of their family.

The planning statement states that the mobile home would be incidental to the main dwelling and used for the same purpose as an integral residential annexe had there been one. The applicants' elderly mother would occupy the mobile home as her living accommodation and she would spend time with her daughter and son-in-law would be close at hand to support her. The elderly mother would share the residential occupation and enjoyment of the principal dwelling and spend time with her family in the main house each day including for meals and socialising.

Other facilities would also be provided by the main dwelling including laundry. The applicants and their elderly mother would also share the outside amenity space and, if they so choose, they could socialise together there as well. There would be no subdivision of the curtilage and the mobile home would not

be rented out or sold off separately.

The daughter and her family would also be able to care for the elderly mother in the mobile home if they are unwell or if the weather is inclement or during the hours of darkness. The mobile home will be used flexibly by the applicants and they would also be able to spend time with their mother in the mobile home enjoying the garden and pastimes together. The mobile home would simply provide the applicants' elderly mother with a degree of privacy and a space of their own to retreat to when needed and a better level of comfort.

The submitted floor plan shows one bedroom, kitchen/lounge/sunroom and a shower room.

Relevant History
None relevant

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 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 as amended).

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 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, 149 Ringmer Roa and is capable of providing living accommodation that can accommodate the requirements of day to day living independently).

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 2020 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.

The issue in this case is whether or not the placing of a mobile home in the rear garden of 149 Ringmer Road Worthing 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.

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 applicant agent states that the unit would not be permanently fixed to the ground and only the services would be connected. The proposed unit would not be attached to the ground because it is fitted with metal shoes which would rest on padstones and is not bolted or fixed to the padstones, a timber strip forming a 'skirt' is for aesthetic purposes and this would not be fixed to the ground and the unit would be free standing.

A statement by 'Homelodge' indicates

I confirm that Homelodge Ltd have visited the above site. The proposed Homelodge at the above site would be a twin unit and is for use as ancillary annexe accommodation.

Our Homelodge accommodation range are designed, manufactured and constructed so that they could be lifted as two bays and as a single volumetric unit, for instance by lorry or low loader fitted with 'crane assist'. The twin unit proposed for the above site will be pre-fabricated at our factory in Crawley near Winchester and it can then be assembled as follows: Assembly method

1 – would be to assemble Bay 1 and Bay 2 (the two sections) in our factory and deliver them both to the site as two separate bays (sections) by lorry or low loader fitted with craneassist. The two bays (sections) would be lifted off the lorry or low-loader by crane assist and into the rear garden with the final action of assembly being to bolt the two bays (sections) together. Once assembled, the proposed unit can be lifted in one piece as a single volumetric unit.

Assembly method 2 – Health & Safety regulations require that 'risks' be designed out of processes wherever possible, so to fulfil this directive and being in line with well-established case law and appeal cases such as the West Devon and the Poole appeal decisions attached, Bay 1 and Bay 2 (the two sections) will be delivered to the site in prefabricated form by lorry and each bay (section) will then be assembled on site independently of each other, the final action being to bolt the two completed bays (sections) together. Again, once assembled, the proposed unit can be lifted in one piece as a single volumetric unit.

For clarity whether the unit is installed using method 1 or method 2 both units would be identical and are structurally capable of being removed from site as a single volumetric unit as shown by the attached Caravan Removal Methodology from site (craning a Premier as a single volumetric unit).

This can be confirmed by an independent crane engineer and independent structural engineers report if required.

The unit proposed will be connected to the same electricity supply and foul drainage serving the dwelling using quick release fittings.

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.

It has been confirmed by the applicants agent and 'Homelodge' that the mobile home will not be permanently fixed, and that it can be moved. 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 149 Ringmer Road Worthing. The site will be shared, there will be no physical separation, all amenity space will be shared, and there will be free movement and use of both the main house and the mobile home by the applicant's mother 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 supporting statement has confirmed that:

-The unit would provide habitable accommodation
-The unit is manufactured so that it would be delivered to the site on a lorry and capable of removal (see the Manufacturer's letter and Lifting Methodology at appendix F)
- It would not be permanently affixed to the ground, only services would be connected
- The use of the land would be ancillary to the dwelling 149 Ringmer Road
-The mobile home would be occupied by the close family relative, specifically the mother/grandmother, of the applicants occupying the dwelling at 149 Ringmer Road
-The grandmother would retain her close family links with her close family occupying the main house and on whom she will be dependent upon for day to day practical support and companionship
-The mobile home would not be provided with a private curtilage
-The mobile home would not have a separate postal address
-The mobile home would share the existing dwelling's utility services and would be jointly billed
-There would be no change to the planning unit
-The mobile home can be removed from the site when no longer needed

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 149 Ringmer 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 on how the proposed mobile home would actually be used in relation to the main dwelling house.

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 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 terms of the proposed mobile home at 149 Ringmer 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.

However in this case Mr & Mrs Trapp state that the mobile home is to be used by Mrs Trapps mother who is elderly and although fairly independent is in need of some support. A supporting statement submitted with the application confirms that the family will be regularly preparing and eating meals in the main dwelling and socialising as well as providing additional support where necessary.

Although the supporting information does not make a clear case that the applicant's mother is a dependant in that there is not, at the present time, a total reliance by the mother, 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 and socialising. Companionship and support are important factors in this case.

Given that the caravan 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 mother 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 building 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 building 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 and is capable of removal once the requirement has ceased. As such, the proposal does not amount to development requiring planning permission and the LDC can be granted.

RECOMMENDATION:

Permit Lawful Development Certificate.

REASONS FOR RECOMMENDATION:

The proposed siting of a caravan within the curtilage of the dwelling house and its use for incidental use to the main dwelling 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).

Expiry Date - 17/11/2023

Informatives

1. The certificate of lawfulness hereby permitted is subject to the caravan being installed, maintained and used in accordance with the submitted details, including the accompanying Planning Statement, location plan, block Plan, floor Plan and elevations received on the 22nd September 2023 and being capable of transportation by road when assembled and installation in accordance with the planning statement.

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.

Case Officer: Jackie Fox Date: 15.11.23

Authorised by: Jo Morin Date: 15.11.2023