From: Beverley Rayner <beverley.rayner@adur-worthing.gov.uk> on behalf of Beverley Rayner
Sent: 09 April 2020 09:20
To: Hannah Barker
Subject: 46 Old Shoreham Road
Attachments: 727460 - advice memo.doc

Dear Hannah

Please find enclosed my advice memo.

If you have any queries please do not hesitate to contact me.

Best Wishes

Beverley

Beverley Rayner **- Assistant Lawyer**, Legal Services | Adur and Worthing Councils
Location: Town Hall, Chapel Road, Worthing, BN11 1HA DX 142960 Worthing 10
Internal: Worthing Town Hall, Chapel Road, Worthing, West Sussex | External: 01903 221035 | E-mail: beverley.rayner@adur-worthing.gov.uk
Follow us on Facebook and Twitter - or search Adur and Worthing

To be a team of innovative, enterprising legal advisors, working collaboratively to enable and ensure the best outcomes for our residents, businesses, communities and visitors.

This communication may contain advice or information that attracts legal professional privilege and may be exempt from disclosure under the General Data Protection Regulation (GDPR), the Data Protection Act 2018 or the Freedom of Information Act 2000. Accordingly, do not disclose this communication to a third party without first taking legal advice from the sender.
We take the privacy and security of your personal information very seriously for more detail on what we collect, how we use it and your rights please take a look at our Privacy Policy
Please think before you print this and save paper.

ADUR & WORTHING
COUNCILS

Internal Memo

From:	Beverley Rayner	Our Ref: 014008-br-we/00727460
To:	Hannah Barker	Your ref: AWDM/0143/20
Cc:		
Date:	**09 April 2020**	
Re:	**Lawful Development Certificate - 46 Old Shoreham Road, Lancing**	

Dear Hannah

Many thanks for your enquiry about the siting of a mobile home in the rear garden of 46 Old Shoreham Road, Lancing and whether this is operational development or if it comes within the definition of a caravan and therefore does not require planning permission and a certificate of lawful use can be granted.

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

(1) 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

(2) 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

(3) 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, 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.

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 live independently in the caravan. Therefore I consider that the proposed mobile home passes the use and function test.

We must therefore consider 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.

I understand 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 I am therefore of the opinion that this proposed mobile home would not be considered as a permanent structure.

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

My only point of concern is how deep is the culvert is and how safe it will be for an elderly gentleman to return to the proposed mobile home late at night in the dark particularly as it has been pointed out that he has mental health issues.

Should you have any queries regarding any of the above please do not hesitate to contact me.

Best Wishes



Beverley Rayner
Assistant Lawyer
Worthing Town Hall, Chapel Road, Worthing, West Sussex
Tel: 01903 221035
e-mail: beverley.rayner@adur-worthing.gov.uk