
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

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

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 amended¹ (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 hopper² and a tall mobile tower³. 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 vehicle⁴. 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, on 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

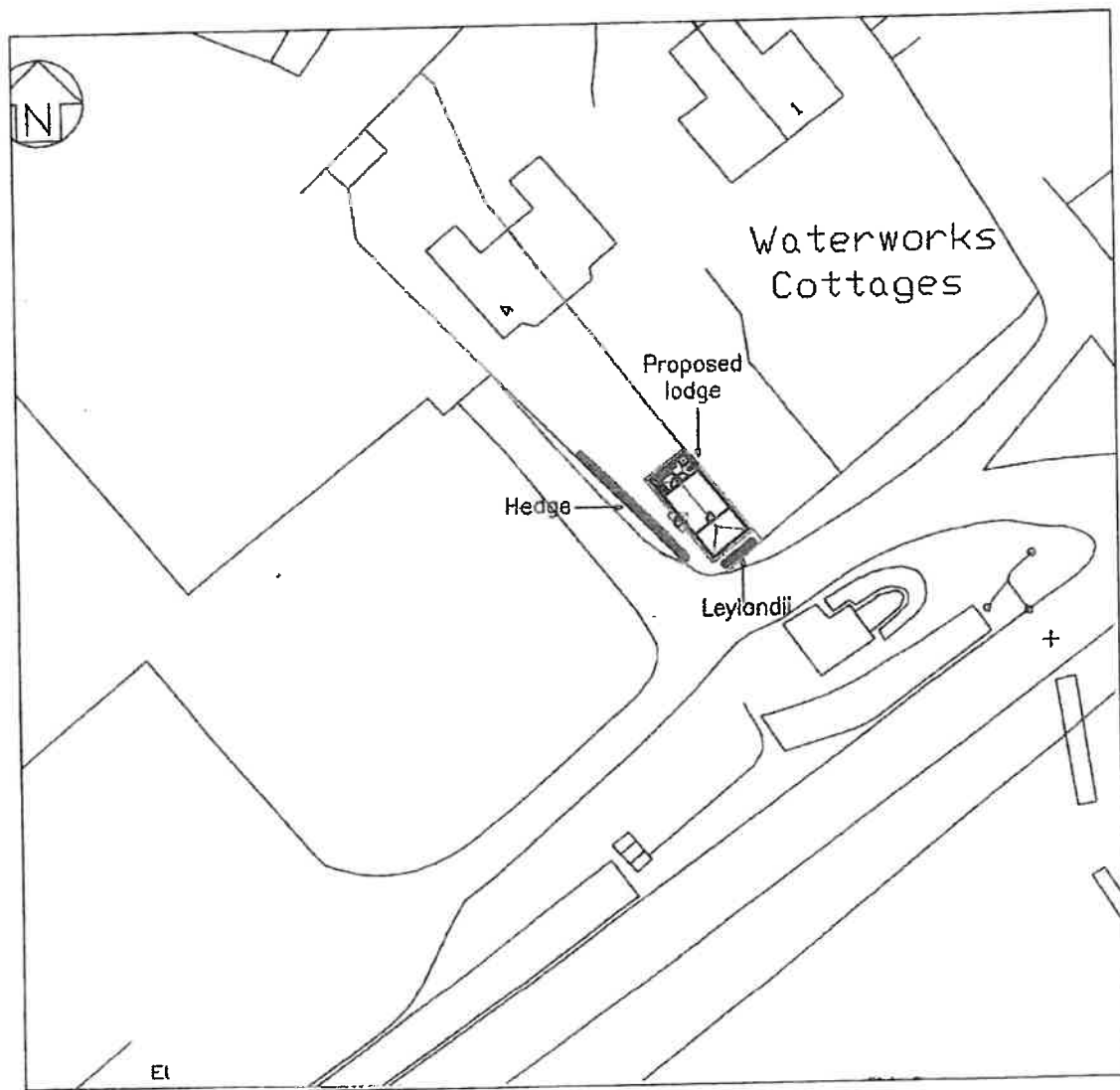
This is the plan referred to in the Lawful Development Certificate dated: 07.12.2011

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





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

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

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.

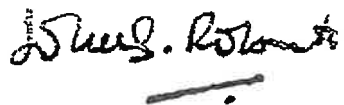
27. The matter is complicated by the presence of the workshop, used by both the appellant's parents for the manufacture of picture and mirror frames. In September 1999 planning permission had been refused for the retention of a workshop and enforcement action to secure its removal was authorised, but 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.


J. G. Roberts

Inspector



Appeal Decisions

Hearing Held on 12 June 2019

Site visit made on 12 June 2019

by Simon Hand MA

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

Decision date: 26 June 2019

Appeal A: APP/U1240/C/18/3204771

Trotters Plot, track from Uddens Drive to Clayford Farm, Clayford, Wimborne, Dorset, BH21 7BJ

- 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 Lee against an enforcement notice issued by East Dorset District Council.
 - The enforcement notice, numbered ENF/16/0335, was issued on 10 May 2018.
 - The breach of planning control as alleged in the notice is in the approximate position marked with a black cross, unauthorised construction of a timber constructed building used for residential purposes.
 - The requirements of the notice are a) cease the use of the building hatched green for habitable accommodation as a dwelling-house; b) demolish the building hatched green on the attached plan; c) remove all the resulting materials from the land affected following compliance with b) above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
-

Appeal B: APP/U1240/C/18/3207038

Trotters Plot, track from Uddens Drive to Clayford Farm, Clayford, Wimborne, Dorset, BH21 7BJ

- 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 Mrs Lee against an enforcement notice issued by East Dorset District Council.
- The enforcement notice, numbered ENF/16/0335, was issued on 10 May 2018.
- The breach of planning control as alleged in the notice is in the approximate position marked with a black cross, unauthorised construction of a timber constructed building used for residential purposes.
- The requirements of the notice are a) cease the use of the building hatched green for habitable accommodation as a dwelling-house; b) demolish the building hatched green on the attached plan; c) remove all the resulting materials from the land affected following compliance with b) above.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C: APP/U1240/W/18/3219361

Trotters Plot, track from Uddens Drive to Clayford Farm, Clayford, Wimborne, Dorset, BH21 7BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Jenna Lee against the decision of East Dorset District Council.
 - The application Ref 3/17/1982/FUL, dated 14 July 2017, was refused by notice dated 28 June 2018.
 - The development proposed is change of use of equestrian land to residential, replacement septic tank, extension of existing shed for use as store and associated parking area. Demolition of barn, retrospective.
-

Decisions

Appeals A and B 3204771 & 3207038

1. The appeals are allowed and the enforcement notice is quashed.

Appeal C 3219361

2. The appeal is allowed and planning permission is granted for change of use of equestrian land to residential, replacement septic tank, extension of existing shed for use as store and associated parking area. Demolition of barn, retrospective at Trotters Plot, track from Uddens Drive to Clayford Farm, Clayford, Wimborne, Dorset, BH21 7BJ in accordance with the terms of the application, Reference:3/17/1982/FUL, dated 14 July 2017, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plan: Trotters Plot amended block plan, 1:500@A4, submitted with appeal on 23/12/2018. The change of use hereby granted permission shall be restricted only to the area outlined in red on that plan. The parking and turning area shall be used only for the parking and turning of vehicles and for no other purposes.

Costs Application

3. An application for costs relating to Appeals A and B was made by the appellants and is the subject of a separate decision letter.

Background to the Appeals

4. The site lies in the green belt in an area of woodland and pasture somewhat remote from any roads but in an isolated cluster of dwellings and farm buildings. Set to the south of the access track is a paddock which contains the appeal structure, with a modest garden area, parking and turning for several vehicles, a storage shed, a stables with a concrete apron outside and a half built concrete block barn-like building which apparently has planning permission.
5. The appeal structure stands on the site of a former barn, which has been removed and which once contained a caravan. A lawful development certificate exists for the stationing of a caravan for residential purposes on the site of the former barn. The red line drawn around the area which lawfully can be used for that purpose is effectively the footprint of the now demolished barn, which

is also the same size as the appeal structure. In essence, having achieved a lawful use for residential purposes the appellant has tried to take advantage of the current limitations on the size and design for a caravan, in order to maximise their living space.

6. Appeals A and B turn on whether they have overstepped the mark in doing so, in which case they will have inadvertently created a permanent dwelling and the ground (a) is to grant planning permission for that dwelling. However, the appellants made it clear they are not seeking planning permission for a permanent dwelling, except as a last resort, and if the appeal succeeds on ground (b) they withdraw the ground (a) appeal. Appeal C is to provide the new appeal structure with an access, parking and some garden area as the lawful use of all the land outside the new structure is agricultural.

The Appeal on Ground (b)

7. The definition of a caravan is contained within the Caravans Sites Act 1968 to include twin unit caravans provided that they meet the requirements of section 13(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)"*. The Act also includes maximum dimensions and the maximum width is 6.8m. The Council argue that the appeal structure is not a caravan as a matter of fact as it is too wide, is composed of at least three sections which were not constructed separately and then designed to be fastened together and it cannot be moved on the road. The parties therefore agreed the issue turns on the construction test, the mobility test and the dimension test.

The construction test

8. This test falls into two parts, firstly, are there more than 2 sections, and if not, are the sections *"separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices"*. There is no dispute that the living accommodation of the unit consists of two sections. These were manufactured in Romania and delivered to the site broken down into kit form. The final act of construction, once it had been assembled into two halves was to join the them together with bolts etc. The issue between the parties is that the Council allege the two separate halves were actually constructed as one unit on the site, albeit one that was separable into two. It was then moved apart and re-joined in a cynical attempt to pass the construction test.
9. Various court cases and an appeal decision were referenced. In Byrne¹, the court held that *"if the process of construction was not by the creation of two separately constructed sections then joined together..."* it was not a caravan. It is thus clear that the two sections have to be constructed separately before being joined together. In Brightlingsea² a lodge that comprised of two parts brought to the site and then joined together was a caravan. Each half sat on a metal chassis with wheels and a towing device. But that is not the case here and there is no suggestion that a caravan is defined as having a chassis or

¹ Byrne v SSE & Arun DC (1997) 74 P&CR 420

² Brightlingsea Haven Ltd and others v Morris and others [2008] EWHC 1928

wheels. Finally an appeal decision in Borrowash³ accepted that construction of the two halves did not have to take place off site. In the current appeal the kit was assembled on site, and it is agreed this does not prevent it from being a caravan. None of these authorities greatly help in the issues in this appeal, which have to turn on their own facts.

10. I agree that if the Council's analysis of the construction method was the case then the two sections would not have been '*separately constructed*', the apparent 'separate' construction would just have been a smokescreen and the structure would not be a caravan within the terms of the Act. However, I do not think this is a fair description of events. I was shown photographs of the whole unit under construction, apparently as one unit, and also as two. It is also clear there was a final act of joining together. It was explained that as the two halves are built up from the various elements of the kit, they are placed side by side in order to ensure they various components would eventually fit together. The two halves were moved apart and back together as required during construction. This seemed to me to be a reasonable explanation of the construction process.
11. A neighbour provided photographs of the end gable at a late stage in construction. This gable contained the longitudinal split of the two halves. It appeared from the photographs that the cladding on the side was fastened in long strips across the two halves, and then, presumably later cut through with a circular saw to re-create the two separate halves again. This too could be fatal to the requirement that the two halves were separately constructed. However, on closer examination it seems the scaffolding pole in the foreground of the picture sat exactly over the actual gap between the two halves and so hid it from view. The cut ends of the cladding could just be seen at one point, suggesting the gap was there, but hidden from view by the scaffold pole. Given the whole structure was delivered in a kit form, and each separate part was made to fit together to form two halves, it seems unlikely the rather crude method of cutting the wood with a circular saw after being fixed would be used to finish the cladding. Consequently I do not consider these photographs show the construction of one unit rather than two. Other photographs showed the roof felting covering the gap between the two halves, but inevitably the roof would have to be waterproofed in this way, this does not mean the construction test is failed.
12. The whole process is somewhat artificial as no doubt it would be easier to design and construct a building of the same dimensions as a single unit, but the two units are required by the Act and by the planning system. In this case it seems to me the design and construction of the two halves was indeed within the wording of s13(a).
13. A subsidiary issue is that the structure consists of more than 2 sections. The two halves are supported on wooden beams which are regularly spaced running from front to back and the beams in turn are lifted off the ground by adjustable metal feet which sit on a base of crushed stone. The metal feet are bolted to the beams, but the accommodation sits on the beams without any direct fastening. The manufacturer of the structure recommends using low walls made of concrete blocks but the appellants chose here the beam and feet option.

³ APP/N1025/C/01/1074589 (19 April 2002).

14. The Council argue that when the two halves are winched off and onto a lorry, the beams and feet will be left behind. They thus form a third section taking the whole structure beyond the limitation of s13. In my view, to form a 'section' of the structure the elements in consideration should form an integral part of that structure. All caravans, mobile homes and park homes (all of which are designed to fall within the definition of a caravan) have to sit on the ground in some way. If they sit flat on the ground there are issues with damp and with future mobility, so they usually are raised off the ground, which also allows pipes for services to be easily run to them and disconnected if they are moved. A touring caravan sits on its chassis and wheels. A much larger mobile home will usually have a metal chassis and wheels, but the wheels will not support the mobile home which will have metal legs that are lowered down to level the unit on the ground. Park homes can have a similar arrangement, but I was informed they can also sit on props of all kinds. I have seen numerous mobile homes that sit at least partly on concrete walls where they are on sloping sites.
15. I was informed the appeal structure is internally structurally sound and the floor is braced so that the beams are not an integral part of its stability. The beams could be removed and each metal leg have a shorter piece of wood (or similar material) to spread the load where it supported the unit above. I agree that this is just a method for supporting the structure above the ground, it is not a separate section, such that the structure could be said to be composed of more than two sections. In my view therefore the construction test is passed.

The mobility test

16. This test is rather more easily dealt with. The Council did not, in the end, dispute the evidence provided that the two halves of the structure could be winched up by a large crane and then put on the back of a trailer to be taken to another site. Their contention was that the third section (the beams and feet) would be left behind. As I have concluded the beams and feet do not form a third section, whether they are left behind or not does not affect the mobility of the two halves that do form the unit, so the mobility test is passed.

The dimension test

17. There is no dispute the wall to wall width of the structure is 6.29m, which is 51cm within the allowance. However, the Council point out that the roof timbers overhang the walls by 40cm on each side to create eaves. To these are attached fascia boards and guttering, adding an extra 12cm to each side, giving a total width of 7.33m or 53cm too much. I agree with the Council that a structure either fits within the measurements or it does not, there is no room for a de minimis excess other than that of a few millimetres which could be explained as measurement error.
18. The appellants position is essentially that it is obvious the measurement is meant to be wall to wall and excludes projecting eaves or rainwater goods etc. This is how the industry as a whole understands it and to find otherwise would be to take away the definition of caravan from numerous mobile and park homes at a stroke. I was shown two plans of mobile homes currently on the market, which were 6.79m wide, plus overhanging eaves and gutters. I was also referred to the case of Brightlingsea (referred to above) where this issue was fully aired and incidentally where the court held that whether

consternation would be caused to manufacturers of mobile homes was irrelevant to the outcome of the case.

19. In Brightlingsea the court had to determine whether a lodge was a caravan for the purposes of the 1968 Act. In that case, as in this appeal, the wall to wall measurements were within the 6.8 limits but not if the eaves were included. The court held in paragraph 80 of the judgement *"if one is measuring the width of a structure such as the lodges, it is normal to take the wall measurements and to exclude the roof measurements. Secondly it seems to me to be more likely that Parliament would seek to control the wall measurements for width and length rather than the roof measurements"*.
20. There was considerable discussion at the Hearing about the model conditions for a caravan site, and the Government's response to the consultation on extending the measurements to 6.8m. It is clear from these that the 6.8m is intended to be wall to wall, and the diagram in the consultation response, which is repeated in the model conditions shows exactly that. I accept that these are merely the view of the Government department, not a definitive guide to the Act, and the model conditions are primarily concerned with caravan spacing, rather than actual sizes, nevertheless it is instructive that the advice is consistent in measuring wall to wall. However, the courts view in Brightlingsea seems to me to be decisive and also to agree with the Government's own view. I have been given no reasons to consider this appeal should be treated as different from these authorities and so I consider the dimension test is met.

Conclusion

21. Taking this all together I consider the structure enforced against is a caravan within the meaning of the 1968 Act. The matters alleged have not occurred and so the appeal succeeds on ground (b). I shall allow the appeal and quash the notice.

Appeal C – Creation of a Curtilage

22. The s78 appeal is for a material change of use of a defined area of land around the caravan from agricultural to residential. A plan has been supplied which shows the extent of the land affected. This includes an access from the track, a turning area, a small strip of land to the south of the park home and an area around a shed next to the park home.
23. The Council accept that whether the residential structure is a caravan or a permanent dwelling it is reasonable for it to have some form of garden area, an access and some parking. When the original LDC was granted, the red line was drawn tightly around the footprint of the old tin barn which contained the caravan. This, the Council argue, gave the then much smaller caravan an area of land for residential use. The appellant has now filled this land up with the new larger park home, but as I have found it to be lawful, it follows this too should be allowed an area of land around it for residential use. Had I allowed the appeal on ground (a), the Council suggested a strip of land 7m wide to the south and east of the park home would be acceptable. This would take up most, but not all of the proposed access drive and about half the parking and turning area but would be slightly more generous than the proposed garden strip to the south of the park home. What it would exclude is the shed.

24. In my view the turning area is obviously necessary for convenience and safety, and that proposed is more or less the minimum required. The strip of garden to the south is not controversial, and again is the only outdoor garden space available (the land to the north between the park home and the track contains the stable). The shed has been in existence for some years, and that is not in dispute. However, it has been enlarged by the appellants, adding 2m onto the end, turning it from a 4x3m to a 4x5m shed.
25. The site lies in the green belt where inappropriate development is harmful. The NPPF at paragraph 146 notes that certain forms of development, including a material change of use of land, are not inappropriate providing they preserve openness and do not conflict with the purposes of including land in the green belt in first place. The purposes of including land in the green belt are explained in paragraph 134 and these are high level purposes that are not infringed by this minor encroachment. Although a material change of use should preserve openness, this is not a blanket ban on any structures at all but should be seen in the context of what the material change of use is. In this case it is for residential purposes and includes a modest shed which are required for a use that has already been found to be lawful. The small extension of the shed does not in this context harm openness and neither would the parking of cars associated with, what is in this context, a modest bungalow with a small area for parking and turning. Vehicles would have to be parked somewhere and there would potentially be more impact if there was not an identified area to do so. Any further extension of the area into the countryside would require planning permission and could well have an effect on the green belt, but as it is drawn, it seems to me to be entirely reasonable.
26. Consequently, I do not find the proposed material change of use to be inappropriate development. The residential land acquires no permitted development rights, so there should be no further development on the site. It therefore also accord with policy HE3 of the Christchurch and East Dorset Core Strategy which seeks to protect landscape character. The septic tank and demolition of the barn are not opposed by the Council.
27. I shall allow the appeal and grant planning permission for the material change of use, subject to the condition that the uses are limited to the area shown on the plan provided as part of the appeal.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Amy Cater	Solicitor
David Vestey	Surveyor
Clive Miller	Agent for Enforcement appeals
Vik Cooper	Timber Spec
Ian Lassiter	Agent for s78 appeal
Janet Lee	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Poonam Pattni	Of counsel
Pip Williams	Enforcement
Elizabeth Adams	Planning
Anthony Delk	Surveyor

INTERESTED PERSONS:

Tim Harris	Neighbour
------------	-----------

DOCUMENTS

- 1 Written submissions on behalf of the Council
- 2 Statement of common ground – enforcement
- 3 Statement of common ground – s78
- 4 Amending the definition of a caravan - ODPM consultation paper and response.
- 5 Floor plans and measurements of typical park homes
- 6 Photographs from Mr Harris
- 7 Transcript of Lloyd v SSCLG & Dacorum BC [2014] EWCA Civ 839
- 8 Costs application

Appeal Decision

Site visit made on 24 September 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 SEPTEMBER 2025

Appeal Ref: APP/R3650/X/25/3359353

8 Forge Close, Farnham, GU9 9PX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Jonathan Stackhouse of Julius Bahn Limited against the decision of Waverley Borough Council.
 - The application ref WA/2024/02157, dated 6 November 2024, was refused by notice dated 17 December 2024.
 - 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 siting of a mobile home to provide ancillary annexe accommodation.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Preliminary Matter

2. For the avoidance of doubt, I make clear that the planning merits of the proposed siting of a mobile home to provide ancillary annexe accommodation are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether (i) the proposal is, by definition, a caravan and, (ii) if not, whether it is a building which would meet the limitations and conditions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and, if not, (iii) whether use of the land for the siting of a caravan would constitute a material change of use of the land requiring planning permission.

Reasons

4. The term caravan is defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 as meaning '*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*'.

5. It is proposed to position a prefabricated wooden single storey one-bedroom residential unit within the garden area of 8 Forge Close. The facility would also include a sitting area, kitchen/dining area, and a shower/WC. It would be used by a 'dependant relative' of the occupiers of the associated dwellinghouse. It would be positioned on top of a steel chassis which would rest on adjustable concrete pads, neither of which would be physically attached to the ground. The steel chassis would include lifting eyes/hooks to enable the residential unit to be lifted by crane and placed on the back of a flatbed lorry for transportation elsewhere. The appellant states that prefabrication of the main components would take place off site, and assembly (i.e., the walls, roof and internal partitions) would take place on-site. There would be no foundations formed for the residential unit: it is proposed only to strip back the grass to provide a level area.
6. It is not proposed that the residential unit would be a 'twin unit caravan'. This is relevant as there are specific restrictions with the Caravan Sites Act 1968 (CSA 1968) relating to this type of caravan. As a 'single unit' caravan is proposed, it is not necessary under section 13(1) of the CSA 1968 that it 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*'. In other words, assembling the prefabricated residential unit on the appeal site does not in this case mean that it is not a caravan with reference to the CSA 1968. The claim made by the local planning authority that assembly on site automatically means that what is proposed is a building is not reasonably substantiated when the CSA 1968 is considered.
7. Section 13(2) of the CSA 1968 imposes a maximum size restriction in respect of twin-unit caravans. The proposal would measure about 9.1 metres (length) by 5.0 metres (width) by 3.0 metres (internal floor to ceiling height) as shown on the submitted plans. Even accounting for the fact that a twin unit caravan is not proposed, in size terms the proposal would, in any event, be well within the maximum size restriction imposed for a caravan as stipulated in the CSA 1968.
8. I am satisfied that it would be possible to pick up the residential unit using a crane and place it onto the back of a flatbed lorry so that it could be moved elsewhere. In my judgement, the attachment of the unit to services would not in itself mean that the proposed residential unit was not a caravan. This is not the same as a physical attachment to the ground. Disconnection from services is generally a simple matter which can be achieved within a very short period if a caravan needs to be moved.
9. Any perceived difficulties in gaining access to the garden from the point of view of transportation of the residential unit in its assembled state, or craning it onto a flatbed lorry, is not the point. It is the residential unit that must possess the necessary mobility qualities and not the means of access to or from the site. In any event, and despite the relative narrowness of Forge Close in parts due to parked vehicles, there is no reason why it would not be possible for the appellant to pre-arrange an unobstructed highway if it was necessary to transport the proposed residential unit.
10. In addition to the above, I emphasise that a lack of any suggested intention to move the proposed residential unit around the site would not mean that what is proposed is not a caravan. Indeed, it is often the case that static caravans remain in the same place for long periods of time.

11. For the above reasons, I conclude that the proposal would, by definition, comprise a caravan. As it meets the definition of a caravan, it cannot therefore be a building. The mobility, construction and size tests as laid out in the CSA 1968 are met. Moreover, the residential unit would be used for human habitation. In this regard, and notwithstanding the Council's contention that a building is proposed, it is not necessary for me to assess the proposal against Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is because a caravan and not a building is proposed.
12. In concluding that a caravan is proposed to be positioned within the garden area of No. 8 Forge Close, it is necessary that I also consider whether what is proposed would amount to a material change of use of the land. The existing primary use of the land is a single dwellinghouse (use class C3) falling within one planning unit. While the caravan would include all the facilities needed for independent living, the appellant has made it clear that it would be occupied only by a '*dependant relative*'. It is not proposed to separate the caravan off from the rest of the garden or that it would have its own separate curtilage. A physical relationship with No. 8 Forge Close would be maintained. Moreover, there is no suggestion that separate car parking areas would be formed, that there would be a separate postal address, or that the caravan would be occupied by anyone who is unconnected with the family living in No. 8 Forge Close.
13. On the evidence that is before me, I am satisfied that the proposal would not result in a material change in the character of activities on the land from what has gone on previously. I do not find that the likely relative increase in vehicular and pedestrian comings and goings on the land from use of the caravan by a '*dependant relative*' would be material. Furthermore, there would be functional relationship with the use of No. 8 Forge Close from the point of view of the occupant of the caravan being a '*dependant relative*'.
14. On the evidence that is before me, I consider that a material change of use of the land would not occur. In this regard, the proposal would not amount to an act of development given section 55(2)(d) of the Act which states that development does not include '*the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such*'. The local planning authority appears to accept this point in so far that it states in its officer report '*the proposed use is therefore ancillary to the existing dwelling, and the structure would be sited within the existing domestic plot. Therefore, it is not considered that the proposal would constitute a material change of use of the land*'.
15. Overall, I conclude that the proposal would amount to the siting of a caravan on the land. Moreover, it would not constitute a material change of use of the land requiring planning permission. The evidence is that it would be incidental to the primary use of No. 8 Forge Close as a dwellinghouse.
16. In reaching the above conclusion, I acknowledge the comments made by the occupier of No. 23 Guilford Road. However, the comments made relate to planning merits which are not relevant to the consideration of this LDC appeal which rests on the facts of the case and on relevant planning law and judicial authority. In addition, I have also considered the appeal decision referred to by the local planning

authority at No. 28 Ringwood Road, Oxford¹. However, the type of mobile home relating to such an appeal was not the same as that which is the subject of this appeal. In particular, it concerned a twin-unit caravan and the prefabrication of two separate sections, as opposed to this appeal which is concerned with a single unit caravan.

Overall Conclusion

17. 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 for the siting of a mobile home to provide ancillary annexe accommodation is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley

INSPECTOR

¹ LDC appeal reference APP/G3110/X/17/3181229 dated 8 June 2018



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 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 6 November 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the plans 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 proposal would be caravan as defined in the Caravan Sites Act 1968. Moreover, it would fall within the curtilage of No. 8 Forge Close, Farnham and its use would be incidental to the enjoyment of No. 8 Forge Close as a dwellinghouse. Therefore, the proposal would not amount to development and hence planning permission is not required for it.

Signed

D Hartley

Inspector

Date: **29 SEPTEMBER 2025**

Reference: APP/R3650/X/25/3359353

First Schedule

Siting of a mobile home to provide incidental annexe accommodation.

Second Schedule

Land at 8 Forge Close, Farnham, GU9 9PX

IMPORTANT NOTES – SEE OVER

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.



Plans

These are the plans referred to in this decision dated: **29 SEPTEMBER 2025**

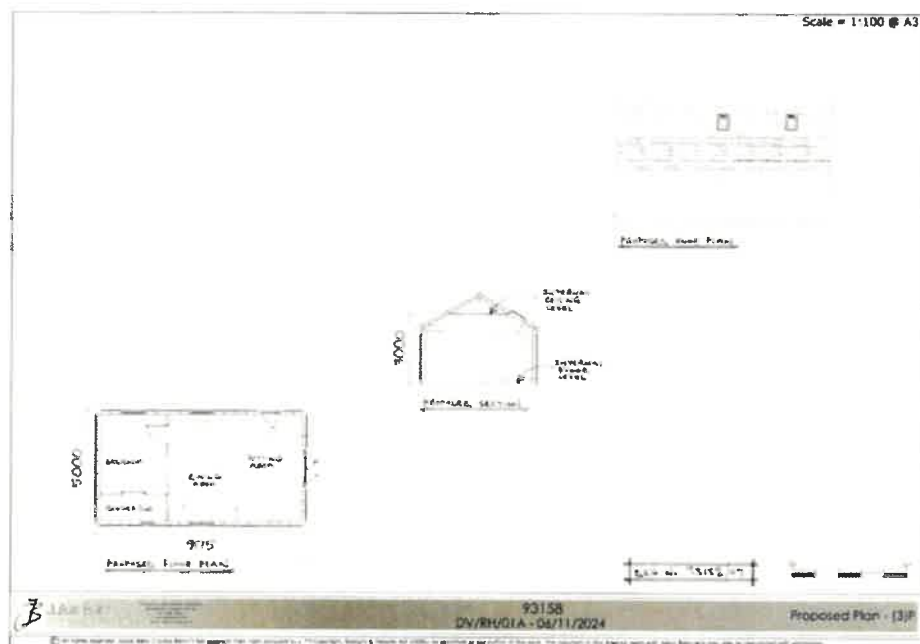
by **D Hartley BA (Hons) MTP MBA MRTPI**

Land at: 8 Forge Close, Farnham, GU9 9PX

Reference: APP/R3650/X/25/3359353

Scale: Not to Scale







Appeal Decision

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Appeal Ref: APP/Z5630/X/20/3254407
14 Almshouse Lane CHESSINGTON KT9 2ND

- 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 (LDC).
 - The appeal is made by Mr Stephen Haskell against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 20/00475/CPU, dated 25 February 2020, was refused by notice dated 12 June 2020.
 - The application was made under section 192(1) of the Town and Country Planning Act 1990 as amended.
 - The matter for which a certificate of lawful use or development is sought is described as 'The provision of a hard surface within the rear garden of the residential dwelling (permitted development) in connection with the siting of a twin unit mobile home for use as additional accommodation as part of one planning unit (not operational development or a change of use)'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. In order to minimise contact during the Pandemic, and given the nature of the issue in this case, I did not visit the appeal site.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well founded. This turns on whether the proposal would involve building operations taking place on the site and whether the proposed hard surface would be permitted development.

Reasons

General approach to LDCs

4. Advice relating to LDCs is provided by the Government's Planning Practice Guidance (PPG). This establishes that the applicant is responsible for providing sufficient information to support an application. A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant.

The log cabin

5. The appellant's case relating to the cabin is premised on the claim that it would not amount to development. The meaning of development is set out in s55 of the Act (as amended). At 55(1) it says:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

6. It is a point of agreement that there would be no change of use in this case. No mining, engineering or 'other' operations are proposed, so the sole consideration is whether building operations would take place.
7. Section 55(1A) says:

For the purposes of this Act " building operations " includes—

- (a)demolition of buildings;*
 - (b)rebuilding;*
 - (c)structural alterations of or additions to buildings; and*
 - (d)other operations normally undertaken by a person carrying on business as a builder.*
8. Only point (d) is relevant in this case. It is therefore necessary to consider whether the proposed log cabin would result in 'operations normally undertaken by a person carrying on business as a builder'. Linked to this is the question of whether the cabin would be a building. Section 336 of the Act says:
- "building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;*
9. It seems to me that the log cabin would have the appearance of a 'structure or erection'. However, the definition has been further considered by the courts. In particular, the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102, endorsed the view that 3 factors needed to be considered in deciding whether something was a building – size, permanence and physical attachment.
10. The proposed log cabin would be about 9m long and 5m wide and a little over 3m to the ridge. Although smaller than many mobile homes and clearly subservient to the house in terms of scale, it would be larger than many buildings, such as many domestic garages, for example.
11. It would be mainly of wooden construction, as are many buildings. In my view it appears substantial and could be expected to stand for many years. Thus, it has a significant degree of permanence. There is nothing obvious about its appearance to suggest that it has been designed as a temporary structure.
12. The building would not be fixed to the ground in the sense of being bolted down or concreted in place. However, it would be substantial enough to be fixed in place by its own weight, as many buildings are. The fact that caravans are also held in place by their weight alone does not mean that a structure must be anchored by some additional means in order to be a building.

13. Thus, consideration of the 3 tests outlined in *Skerritts* as a whole suggests that the log cabin proposed may be regarded as a building.
14. As to its construction, the cabin would be formed of many interlocking wooden sections. The appellant advises that it, 'is designed to be assembled in two parts on site with the joining of these as the final act of assembly'. I take it from this that the cabin would arrive at the site in its component form and the components would be assembled into 2 units, which would then be joined together. The appellant indicates that the assembly would be carried out by the manufacturer, who is not a builder. Nevertheless, in my view fitting together numerous wooden parts and the other work necessary to create a log cabin can be regarded as 'operations normally undertaken by a person carrying on business as a builder'. Thus, it appears that building operations would take place on the site. Before a final view is reached on this point, however, it is necessary to consider the appellant's argument that the log cabin would be a twin unit caravan.
15. Whether or not the log cabin is a caravan in law is relevant to the question of whether it is a building; the judgement in *Measor v SSETR [1999] JPL 182* suggests that a mobile caravan would not generally satisfy the well-established definition of a building, having regard to factors of permanence and attachment. However, in the same judgement the deputy judge also stated that he would be wary of holding, as a matter of law, that a structure which satisfies the definition of, for example, a mobile home under s13(1) of the Caravan Sites Act 1968 could never be a building for the purpose of the Town and Country Planning Act 1990. Thus, while relevant to the overall assessment, a finding that this structure is a caravan would not, on its own, show that it is not a building.
16. For planning purposes, 'caravan' is defined in s29 of the Caravan Sites and Control of Development Act 1960. Section 13 of the Caravan Sites Act 1968 (as amended) adds to the definition to address twin unit caravans, and so is also relevant in this instance. The issue of the definition of a caravan has come before the courts on numerous occasions and both parties have referred me to various judicial authorities and appeal decisions which address the matter. From this my understanding is that a structure can only be regarded as a twin unit caravan if it is:
 - designed or adapted for human habitation
 - 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
 - within the size limitations specified in the 1968 Act; and
 - 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). Whether or not movement on a road would be lawful is not relevant to the test.
17. The first 3 of these points appear straightforward. There is no suggestion that the structure proposed would not be designed/adapted for human habitation. I understand that it would have bedroom, bathroom and living room accommodation, as well as 'limited kitchenette facilities'. The drawings

submitted show that the cabin would be composed of 2 distinct sections. The 1968 Act (as amended) specifies maximum dimensions of 20m (length), 6.8m (width) and 3.05m (internal height) and the structure proposed would fall within these limitations.

18. As to movability, the proposed structure would not be on wheels and could not be towed. However, the definition explains that this is not necessary. Nor are the intentions of the owner/applicant relevant in considering the movability of the structure, or limitations on movement due to site constraints – a point made in Appeal decision Ref APP/Q5300/X/17/3183883, to which the appellant refers. Rather, the question is whether or not the structure is capable of being moved. To address this, the appellant has provided technical evidence in the form of 2 documents provided by the manufacturer intended to show that the structure proposed could be craned onto a lorry and moved.
19. However, neither document deals adequately with the particular structure at issue. The first, entitled 'Certificate of Legal Conformity' sets out the dimensions of the unit and states, amongst other things, that it is 'capable of being moved as one'. The evidence to support this is in the form of an appended document entitled 'Generic Interlocking Log Cabin Timber Frame Calculations' and a sketch showing how a building could be loaded onto a lorry with a crane. However, this information appears to be based on a generic interlocking structure and not the particular structure before me, which is composed of 2 separate elements which would be fastened together. This is a significant characteristic of its design and I cannot be sure that the assessment before me has taken it into account. Indeed, the sketch does not show a twin-unit structure.
20. Moreover, the sketch shows that 2 steel wire ties with tensioners would be attached to each support beam – 46 steel wires in total. These are clearly not part of the structure itself but appear to have been added to distribute loads during lifting. The need for the addition of these significant structural elements suggest to me that the structure in its unmodified form is not, in fact, capable of being moved without significant risk of damage or collapse.
21. A second manufacturer's report - *Structural Analysis of lifting and trailering a Typical Log Cabin Mobile Home* - has been provided. This shows a smaller structure, closer to the size of the appeal structure (although not of the same dimensions), with fewer steel wire ties. However, the same difficulties apply; the structure shown in the report appears to be a generic, 'single unit' structure and the 15 steel wire ties proposed appear to be a significant structural addition for moving purposes. Overall, therefore, I conclude that it has not been demonstrated, on the balance of probabilities, that the structure before me is capable of being moved. Accordingly, it does not meet the definition of a caravan.
22. The appellant has drawn my attention to the case of *Byrne v SSE & Arun DC [1998] JPL 122* and various appeal decisions in which the issue of constructing caravans on site is discussed. In Appeal Ref APP/L5810/X/15/3140569 the Inspector concluded that the structure would not be composed of more than two sections separately constructed and designed to be assembled on the site. In appeal Refs APP/N1025/C/01/1074589 and APP/B5480/C/17/3174314 the Inspectors concluded that a caravan could be assembled from many components on site. However, nothing in those decisions alters my view that

the particular structure before me is a building and not a caravan. Accordingly, I regard the assembly of the structure from its component parts as building operations and not the act of making a caravan, irrespective of whether the joining of the 2 main units is 'the final act of assembly'.

23. The 'Woolley Chickens' case referred to by both parties has no bearing on my decision, given the very different nature of the structures being considered in that case.
24. I conclude for the reasons set out above that the wooden cabin proposed would be a building and that building operations would take place on the site. Consequently, the appeal proposal would result in development taking place on this site. Since it is a matter of agreement that there are no permitted development provisions that are relevant to the cabin, it follows that planning permission would be needed to erect it on the site.

The hard surface

25. The proposal includes a hard surface. It is argued that this is development permitted by Schedule 2, Part 1, Class F of the *Town and Country Planning (General Permitted Development) (England) Order 2015*, which permits 'the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such'. However, the cabin and the hard surface are plainly part of the same overall scheme and there is no suggestion that the hard surface would be required for any purpose other than for the siting of the cabin. The appellant has explained that the cabin would not be used for purposes incidental to the enjoyment of the dwellinghouse but as primary living accommodation. Thus, used as proposed, and notwithstanding the Council's lack of objection to the hard surface in isolation, I am not persuaded that it would be development permitted by Class F.

Conclusion

26. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the provision of a hard surface within the rear garden of the residential dwelling (permitted development) in connection with the siting of a twin unit mobile home for use as additional accommodation as part of one planning unit (not operational development or a change of use) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended and dismiss the appeal.

Peter Willows

INSPECTOR



Appeal Decision

Site visit made on 18 September 2017

by Jessica Graham BA (Hons) PgDipl

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

Decision date: 27 September 2017

Appeal Ref: APP/R5510/X/16/3166035

2 Westfield Cottages, Sipson Lane, Harlington, Hayes UB3 5EJ

- 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 (LDC).
- The appeal is made by Mrs Rebecca Hampton-Flory against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 71826/APP/2016/3207, dated 23 August 2016, was refused by notice dated 9 November 2016.
- 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 siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such.

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 is whether the Council's refusal to issue a LDC was well founded. That turns on whether the siting of a mobile home within the curtilage of the dwellinghouse, for use as described in the application, would amount to development requiring planning permission.
2. S.55(2) of the Town and Country Planning Act 1990 Act lists operations and uses of land that, for the purposes of the 1990 Act, shall not be taken to involve development of the land. This includes at s.55(2)(d) *the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such*.
3. The Council refused to issue a LDC on the grounds that the proposal would not fall within s.55(2)(d) of the 1990 Act for two reasons: firstly, that the size, scale and facilities of the proposed mobile home were not such as would be required for purposes incidental to the enjoyment of the dwellinghouse, and secondly, that its siting would involve the installation of a substantial foundation which would constitute operational development.
4. The key questions for this appeal, then, are (1) whether the use of the mobile home would be for purposes incidental to the enjoyment of the dwellinghouse as such; and (2) whether siting the mobile home would involve operational development.

Reasons

Background

5. In applications for LDCs, it is for the Appellant to make out her case on the balance of probability.
6. The Appellant wishes to site a mobile home within the garden of her house, as ancillary accommodation for her elderly parents. The evidence of the Appellant, which is supported by letters from medical practitioners and is not disputed by the Council, is that both of her parents are in ill health and need a considerable amount of care and support. The appellant is a healthcare professional, and with help from her eldest daughter, wishes to care for her parents at home. There is insufficient space for this in the existing three-bedroom dwellinghouse at No. 2 Westfield Cottages, and the appellant's father would be unable to access the bathroom, which is upstairs.
7. The proposed mobile home is intended to provide a secure and supervised environment for the appellant's parents, while still allowing them a degree of independence and privacy. The mobile home would have three bedrooms; one for each of the appellant's parents, and one for her eldest daughter. There would be an en-suite bathroom attached to the bedroom used by the appellant's father, and a separate bathroom for the other two occupants. While the mobile home would have its own kitchen, main meals would be prepared by the appellant, and her parents would eat with the rest of the family in the dining room of the dwellinghouse.

Whether use would be for purposes incidental to the enjoyment of the dwelling

8. The curtilage of 2 Westfield Cottages consists of the garden around the dwellinghouse, as shown edged in red on the application plan. The mobile home would be sited within the garden just under 5m from the back door of the house, and would share the same access from Sipson Lane. It would not have its own separate postal address, and nor would services be separately metered: the electricity, central heating and water would connect to the existing supply, and would be paid for by the appellant.
9. I note the Council's concern that with a footprint of 92m², the proposed mobile home would represent 170% of the original 54m² footprint of the house, and so would fail to appear subservient. However, the dwellinghouse has two storeys, which together provide floor space of 108m². This is only slightly more than that provided by the mobile home, but the single-storey structure would appear visually subservient to the two-storey house. In any event, while comparative scale is a relevant consideration, it is not a determinative factor: the size of the proposed mobile home does not preclude it from being used for purposes incidental to the enjoyment of the dwellinghouse.
10. The Council also expressed concern that the proposed orientation and positioning of the mobile home would create a secluded private garden area to its rear, such that it would have its own curtilage independent from the original dwelling. However, the evidence of the appellant is that the proposed position of the mobile home is so that its entrance, living space and front bedroom would be visible from the main dwellinghouse. It would have no back door to open on to the rear portion of the garden, which would not be fenced off or severed from the rest of the curtilage in any way, but rather would continue to

be used as garden space for the enjoyment of all family members, whether resident in the main dwellinghouse or the mobile home.

11. The Council contends that because the mobile home would contain all the facilities required for day to day living, the appellant's parents would not be dependent on any of the facilities in the main dwellinghouse, and so there would be no functional link between the dwellinghouse and the mobile home. The appellant does not dispute the fact that the mobile home would contain all the facilities needed for day to day living, but her evidence makes it clear that the proposed use is not as an independent unit of accommodation. The use of the mobile home in the manner described in the application would be a use that was part and parcel of the use of the existing dwellinghouse at 2 Westfield Cottages. If it subsequently transpired that the mobile home was being used in a different way to that described in the application, then the LDC would be of no benefit to the appellant and it would be open to the Council to take appropriate action.
12. On the basis of the evidence before me, I conclude that 2 Westfield Cottages and all of its curtilage would remain under one ownership and control, and there would be no functional separation of the use of the mobile home from the use of the main dwellinghouse. I am satisfied that the mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse as such.

Whether siting the mobile home would involve operational development

13. The plans and supporting information submitted with the application demonstrate that the dimensions of the proposed mobile home would not exceed the size limitations set out in the statutory definition of a caravan given within the relevant legislation¹. It would rest on top of spaced breeze blocks placed on a concrete slab and would not be physically attached to the ground. It could be removed by running straps between the breeze blocks, and lifting the unit by crane. The Council contends that laying the concrete slab would constitute the provision of deep foundations, "extending downwards by at least 1 metre", and would amount to engineering operations falling within the definition of development.
14. It is not clear how, on the basis of the information provided by the appellant, the Council has reached this conclusion. The plans submitted with the application do not indicate a concrete slab approaching anywhere near a depth of 1m, and in the course of the appeal the appellant has confirmed that the slab would be 30cm at its thickest point. In any event, the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such is, subject to limitations and conditions which do not apply here, Permitted Development². Since I have found that the proposed mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse, it follows that the creation of a concrete slab for it to stand on would not constitute development.
15. This accords with the findings of the Inspector who determined an appeal in Hertfordshire³, referred to in evidence by both the Council and the Appellant, albeit that the proposal in that case specified padstones for the mobile home to

¹ Caravan Sites and Control of Development Act 1960 (CSCDA) & Caravan Sites Act 1968 (CSA).

² By virtue of Article 3 and Schedule 2, Part 1, Class F of the General Permitted Development Order 2015.

³ Appeal ref: APP/J1915/X/11/2159970

rest on, rather than breeze blocks. In support of its contention that the mobile home here proposed would have sufficient permanence and physical attachment to the land to constitute development, the Council drew my attention to reference within that Hertfordshire decision to caselaw concerning the readiness with which a unit of residential accommodation could be moved⁴. The test derived is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle.

16. The Council contends that since the appellant states the mobile home would be transported in sections by lorry and be assembled on site, it must follow that its removal would also have to be done in sections, which would fail the above test. However, the supporting material⁵ submitted with the application not only states that the mobile home would be delivered to the site in panels which would be assembled in two sections prior to connection as a whole, it explains that its structure has the appropriate integrity to allow lifting with crane and cradle when assembled as a whole. This would allow the mobile home to be lifted on to a HGV trailer and transported by a single vehicle, thus satisfying the test in *Carter v SoS*, and the requirements of the CSCDA.
17. The Council also refers to the judgment in *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385 as authority for the proposition that if a structure can only be moved through the use of specialist equipment then, as a matter of fact and degree, it will have a greater permanence and physical attachment to the land so as to constitute operational development: the Council points out that a crane is not a piece of equipment commonly found in residential dwellings.
18. I accept that cranes are not readily available to householders or members of the public, but they are frequently deployed by operators engaged in the construction, sale and transport of mobile homes, static caravans, park homes, and other such structures. Importantly, the appellant in this case has provided sufficient information to demonstrate that the proposed mobile home would comply with all of the relevant criteria set out in the CSCDA and the CSA, would be capable of transportation by a single vehicle, and would not be physically attached to the land. In my judgment, when assessed against the considerations set out in *Cardiff Rating Authority* it is clear that the proposed mobile home would be a caravan rather than a building or structure.
19. I am therefore satisfied that the siting of the mobile home would not constitute operational development.

Other matters

20. The Harlington Conservation Area Advisory Panel has expressed concern about the impact the proposed siting of the mobile home would have on the Green Belt. However, I am unable to take such considerations into account since the planning merits of the proposal are not before me: applications for LDCs must be determined solely on the basis of whether or not the existing or proposed development is, or would be, lawful.

⁴ *Carter v Secretary of State* [1995] JPL 311

⁵ Value Mobile Homes Ltd: Caravan Construction Methodology

Conclusion

21. 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 siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such 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

22. 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.

Jessica Graham

INSPECTOR

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 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 23 August 2016 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 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use as described in the information accompanying the application would not constitute development requiring planning permission.

Signed

Jessica Graham
Inspector

Date: 27 September 2017

Reference: **APP/R5510/X/16/3166035**

First Schedule

The siting of a mobile home within the curtilage of the dwellinghouse to be used for purposes incidental to the enjoyment of the dwellinghouse as such

Second Schedule

Land at 2 Westfield Cottages, Sipson Lane, Hayes UB3 5EJ

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 27 September 2017

by **Jessica Graham BA(Hons) PGDipL**

Land at: 2 Westfield Cottages, Sipson Lane, Hayes UB3 5EJ

Reference: APP/R5510/X/3166035

Do Not Scale

