

Delegated Report

Planning Ref: 23/00669/CLP

Applicant: Mr Brian Shea

Ward: Barlestone, Nailstone and Osbaston



Hinckley & Bosworth
Borough Council

Site: Mill Barn, Yew Tree Farm, Occupation Road, Nailstone

Proposal: Application for a Lawful Development Certificate for the provision of a twin unit mobile home (not operational development) within the garden of the lawful dwelling house for use as additional accommodation by a family member as part of one household (not a material change of use)

1. Recommendations

1.1. Grant certificate of proposed lawful development

2. Planning application description

- 2.1. This application seeks a certificate of proposed lawful development for the siting of a twin unit mobile home, for additional accommodation for a family member as part of one household.

3. Description of the site and surrounding area

- 3.1. Mill Barn is two storey detached dwelling located in Nailstone, and is located within the Countryside. The proposed siting of the twin unit mobile home is in the rear garden of the site.

4. Relevant planning history

None

5. Publicity

- 5.1. No publicity required for this application type.

6. Consultation

- 6.1. No consultation required for this application type.

7. Policy

7.1 The Town and Country Planning Act 1990 - Section 55(1)

7.2 Caravan Sites and Control of Development Act 1960 (as amended)

8. Appraisal

- 8.1 The main consideration for the determination of this application is whether the proposal requires planning permission and the compliance with legislation.

Need for Planning Permission

- 8.2 Planning permission can only be required where development takes place, and development is defined in Section 55(1) of the Town and Country Planning Act 1990 as being: "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."
- 8.3 This definition has two 'legs'; one involving permanent physical alterations to land, and the other material changes of use of buildings or land.

- 8.4. The caravan to be sited on the land the subject of the current application will comply with the statutory definition in every respect. No operational development as defined by Section 55(1) will need to take place.

Compliance with legislation

- 8.5 In order for this proposal to be compliant with the relevant legislation, the caravan must be as defined in the Caravan Sites and Control of Development Act 1960 (as amended)
- 8.6 Section 29 (1) of the Caravan Sites and Control of Development Act 1960 defines a caravan as "... any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.
- 8.7 This definition was subsequently modified by Section 13(1) of the Caravan Sites Act 1968, stating that when assembled, said caravan must be physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)
- 8.8 Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 amended Section 13(2) of the 1968 Act to increase the maximum dimensions of a caravan to:
- length (exclusive of any drawbar) - 65.616 feet (20 metres);
 - width - 22.309 feet (6.8 metres);
 - overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) - 10.006 feet (3.05 metres)
- 8.9 The proposed caravan will comply with the above dimensions given the proposed length is to be 13.46m with a width of 6.3m and an internal height of 3m.
- 8.10 With respect to the 'mobility test' it is only necessary to be able to demonstrate that the caravan, when assembled, is 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". This caravan will be placed upon screw piles and theoretically could be moved by crane in the same way in which it would be placed upon the site.
- 8.11 The proposed use for the caravan is for the applicant's family member.. Therefore, the use proposed is additional/ancillary to the use of the existing dwelling at Mill Barn and will not be used nor will it be lawful for it to be made available as a separate and independent residential unit.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

The proposal is considered to be a lawful use. It is determined that there is a subordinate and functional link between the existing dwelling of Mill Barn and that of the proposed twin unit mobile home and therefore does not constitute 'development' as such and therefore the particular circumstances of the case do not require planning application to be granted. The proposal is considered to be a lawful use by virtue of the provisions of The Town and Country Planning Act 1990 - Section 55(1) and the Caravan Sites and Control of Development Act 1960 (as amended)

11. Recommendation

11.1 Grant certificate of proposed lawful development

11.2 Conditions and Reasons

The application has been determined with consideration to the following submitted documents:

- Application Form
- Planning Statement
- Caravan Compliance Information Pack
- Block Plan Drg No. 233033-04 Rev A
- Floor Plans and Elevations Drg No. 233033-02
- Location Plan Drg No. 233033-03 Rev A