

Planning Application

Siting of a Mobile Home for Ancillary Use at:

98 Stanley Road, Hinkley,
LE10 0HT

Planning Statement

By ASM Architecture

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1.0 Introduction

This application is for a Certificate of Lawfulness for a proposed use or development under section 192 of the Town and Country Planning Act 1990 (as amended) to station a mobile home within the curtilage of a dwelling.

In *Measor v SOS* (1998), the High Court held that generally a structure that met the definition of 'caravan' for the purposes of the 1960 and 1968 Acts above would not generally be considered a 'building' for the purposes of the 1990 Act above because of the lack of permanence and attachment.

The meaning of development requiring planning permission is provided in section 55 of the Town and Country Planning Act 1990 (the Act) and comprises of two main elements:

- 1) Operational Development being "the carrying out of building, engineering, mining or other operation on, on, over or under land"
- 2) "The making of any material change of use of any buildings or other land"

This Planning Statement will provide justification as to why the siting of a mobile home for purposes ancillary to the main dwelling does not constitute operational development or a material change of use as per section 55 of the Act, and therefore does not require planning permission.

This report will also seek to address common misconceptions and answer questions that often arise with such applications.

In this statement, reference is made to mobile homes and caravans for the purpose of planning law they are one and the same thing.

As it is proposed the mobile does not constitute operational development, this application does not fall to be considered under Class E of Part 1 of Schedule 2 of the GPDO, which relates to operational development such as the erection of a garden shed or the building of a garage.

2.0 Operational Development

A caravan is by definition a “structure”, yet it is settled law that stationing a caravan on land – even for prolonged periods - is a use of the land rather than operational development, this principle is embedded in the legislative framework, endorsed by the case-law¹ and routinely applied by the Inspectorate.

This is because a caravan is regarded as an article of movable personal property known as a ‘chattel’ and there is no public law preventing one being kept in someone’s garden.

What is a Caravan?

The definition of a twin unit caravan is found within section 13 of the caravan Sites Act 1968, and as amended in October 2006 (CSA)

In order for something to be considered a caravan/mobile home it has to meet three key tests as set out in the CSA, these are:

- (1) Size;
- (2) Mobility; and
- (3) Construction

In the next section of this report the proposed mobile home will be assessed against the above three tests.

Size

Section 13 of The Caravan Sites Act 1968 (amended 2006); prescribes the maximum dimension of a caravan. We have tested these maximum dimensions against the proposal;

| | Maximum CSA Requirement | Proposed Size |
|--|--------------------------------|----------------------|
| Length | 20m | 9m |
| Width | 6.8m | 6.3m |
| Overall Height (measured internally from the floor at the lowest level to the ceiling at the highest level) | 3.05m | 2.3m (internal) |

It is clear the proposal is smaller in form than the prescribed maximum dimensions for a caravan, therefore meets the requirements of the size test.

Mobility

Section 13(1) (a) of the Caravan Sites Act 1968 indicates that a caravan is a structure which, "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)".

The caravan will be placed on a swift plinth foundation system and will not be fixed down, but rather rest on these foundations under its own weight, please see image below. This provides a minimum ground clearance of approximately 150mm, and allows for lifting straps/rig to be placed under the structure and therefore lifted by crane and placed onto a flatbed lorry.

The mobile home has been designed as such that once assembled have the structural integrity to be able to be craned or moved as a whole unit.



Mobility – Common Questions

You can't physically move the caravan out of the site

The appeal decision APP/N1025/C/01/1074589 indicates:

*"To fall within this 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 it 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 [the appeal property] 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.**"*

Appeal Decision by J G Roberts 2002 an Inspector appointed by the Secretary of State. Brentall v. Erewash Borough Council.

It is not necessary for it (a caravan) to be towed, only that it is capable of being moved by road".

Brightlingsea Haven Limited and another v. Morris and others 2008.

"It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road".

You have attached the mobile home to services, therefore it becomes a permanent structure!

Appeal Reference -APP/L5810/X/15/3140569.

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.

Appeal Reference -APP/J1915/X/11/2159970 (Erewash).

- a. *The test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle;*
- b. *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;*
- c. *The fact that the practicalities of mobility (e.g. a narrow driveway or awkward points) is immaterial. The test is whether the mobile home possess the necessary structural qualities to achieve theoretical mobility.*

Construction

Section 13(1)(a) of the Caravan Sites Act 1968 Twin-unit caravans... (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.

The mobile home will be constructed into two distinguishable parts on site and the final act of assembly is the bolting of the two parts together.

There is no requirement that the process of creating the two parts must take place away from site, or from each other. The fact the two parts have been constructed side by side does not nullify the fact they are two separate parts which will be bolted together as the final act in the process.

Construction – Common Questions

You are constructing the two separate parts on site from many pieces, that's operational development!

Appeal Reference – APP/N1025/C/01/1074589

The key observations include:

- A. There is no requirement for the 2 sections to be each identifiable as caravans, or capable of habitation, before they are joined together;
- B. A caravan can be delivered to site in many pieces, and there is no requirement in 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.
- C. It is only necessary the act of joining the 2 sections together should be the final act of assembly.

BYRNE v. SECRETARY OF STATE FOR ENVIRONMENT and ARUN [1997]

"Certainly, it is designed to be composed into two sections, then to be bolted together as the paragraph requires, but this argument disregards two words in the paragraph which seem to me to be of importance. The requirement is that the structure should be composed of not more than two sections "separately constructed". That means, in my judgment, that it was an essential part of the construction process in order to deem a structure as a caravan, that there should be two sections separately constructed'... 'The whole was not constructed by the method of first having two separate parts."

Appeal Reference -APP/B5480/C/17/3174314 - Inspector concludes;

- A. *Two halves constructed on site -He remarks "there is no requirement that the process of creating the two separate sections must take place away from the land". Correctly interpreting Byrne and the Erewash decision.*
- B. *Two halves being completed adjacent to one another, and then finally bolted together. He remarks - "...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"*

Operational Development Conclusion

The proposal meets the size test and in fact is much smaller than the allowed maximum dimensions.

Case law indicates that the temporary attachment to services does not constitute permanence, this therefore satisfies the mobility test.

The caravan will be assembled on the site out of many pieces into two main sections, these will then be joined together as the final act of assembly. This methodology has been accepted at appeal and High Court, we therefore consider this passes the construction test.

The above sections clearly demonstrate beyond reasonable doubt that the proposal meets the three tests as set out in section 13 of the Caravan Sites Act 1968, and as amended in October 2006 (CSA) and should be considered a caravan.

As such the proposal does not constitute operational development.

3.0 Material Change of Use

For there not to be a material change of use, the mobile home must be ancillary/incidental to the C3 residential use.

Whilst there is no statutory planning definition of ancillary/incidental, there are 4 accepted 'incidental' tests, reported to the House of Commons (Hansard, for 22 November 2005) as arising from relevant case law. These are:

- 1) The relationship between the respective occupants;
- 2) The relative size of the house, its garden and the caravan;
- 3) The relative scale of accommodation in the caravan and the house;
- 4) The degree to which the caravan is functionally connected to and subordinate to the use of the dwelling house.

Relationship – The mobile home is for the applicants who due to personal circumstances require additional living accommodation please see supporting personal statement.

Size/Scale of Accommodation – The proposed caravan only results in a small increase in footprint, and the scale of the accommodation within the caravan is minimal, while providing necessary facilities the occupants require for a comfortable life.

Function – Typically, a caravan will be equipped with all the facilities required for independent day-to-day living. It does not follow automatically that once occupied there must be a material change of use simply because primary living accommodation is involved.

It is intended that the occupant will be regularly preparing and eating meals in the main dwelling, watching television/relaxing, socialising with the family and using existing household facilities.

To confirm there will be no separate;

- Address,
- Post Box
- Utility meters,
- Services such as internet, phone line and television,
- Parking,
- Garden area or curtilage, and
- Access.

Without the main dwelling the mobile home would not be able to function.

The occupant of the mobile home will be a family member, so there will be a clear functional interchange of use between the main dwelling and the mobile home by all occupants.

Notwithstanding the above, the application must be assessed on the basis of the stated purpose and not what might potentially occur. An LDC can only certify the use applied for. If the caravan is not used in association with the dwelling, as described, and the functional link is severed, then it would not benefit from the LDC.

4.0 Conclusion

The proposal falls within the definitions stated in the 1960 and 1968 Acts and by any reasonable interpretation is a mobile home, therefore is not operational development.

The applicant states that the mobile home will be used ancillary to the main dwelling, this is reinforced by the shared services, the scale of facilities contained within the mobile home and the fact the planning unit will remain as one.

For the reasons explained above and the case law and precedents put forward, it is considered the correct application of planning law should result in the granting of a Certificate of Lawfulness for a Proposed Use of land.