

Delegated Report

Planning Ref: 24/00891/CLP

Applicant: A DOWNES

Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Site: 98 Stanley Road, Hinckley

Proposal: Certificate of proposed lawful development for the siting of a mobile home ancillary to the main dwelling

1. Recommendations

1. Issue a certificate of lawful proposed development for the siting of a mobile home ancillary to the main dwelling.

2. Application description

- 2.1. The application is for a Certificate of Lawful Proposed Development for the siting of a mobile home ancillary to the main dwelling.
- 2.2. The application is submitted on the basis that the unit is a twin unit caravan. It is proposed to be 9m in length, 6.3m in width with an overall internal height (measured internally as per the Caravan Sites Act 1968) of 2.3m.
- 2.3. The application is submitted on the basis that the mobile home would be occupied by the applicants aunt who has been diagnosed with COPD.

3. Description of the site and surrounding area

- 3.1. 98 Stanley Road is a two storey semi-detached dwelling. The road consists of two storey semi-detached dwellings of a mix of designs and materials. The site does benefits from off-street car parking to the front of the dwelling and a rear garden.

4. Relevant planning history

None

5. Publicity

- 5.1. None required.

6. Consultation

- 6.1. None.

7. Policy

- 7.1. The National Planning Policies and Guidance
- 7.2. The Town and Country Planning Act 1990 - Section 55(1)
- 7.3. Caravan Sites and Control of Development Act 1960 (as amended)
- 7.4. Caravan Sites Act 1968

8. Appraisal

- 8.1. Section 192 of the Town and Country Planning Act (1990) provides a person with the opportunity to apply to the Local Planning Authority (LPA) for a Certificate of Lawfulness to confirm that a proposed use or building operation is lawful. There is no provision under Section 192 for the planning merits of what has been applied for to be considered within the application. National or Local policies also have no bearing on whether a development is lawful. It is therefore an evidence-based application.

- 8.2. Section 192(2) of the Town and Country Planning Act (1990) provides that if the LPA is satisfied on the evidence provided with the application that the proposed use or operations are lawful, they shall issue a certificate; or in any other case they shall refuse the application.
- 8.3. 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."
- 8.4. This definition has two 'legs'; one involving permanent physical alterations to land, and the other material changes of use of buildings or land.
- 8.5. 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.
- 8.6. 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).
- 8.7. 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.
- 8.8. 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).
- 8.9. The caravan would be a twin unit caravan defined within the Caravan Sites Act 1968 as:
- (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)
- 8.10. 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)

- 8.11. The proposed complies with these measurements, measuring 9m in length, 6.3m in width and 2.3m internal height.
- 8.12. 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. Whilst it is accepted that there is not a clear access to the rear of the property, case law dictates that it must possess the necessary qualities to be moved, and does not rely on access. A Construction Method Statement has been submitted with the application which details how the caravan would be put together on site, this provides sufficient information to demonstrate compliance with this test.
- 8.13. The proposal is judged to comply with the relevant provisions in so far that it meets the definition of a caravan.
- 8.14. Finally, it must be established whether the proposal would lead to a material change of use of land. In this regard the LPA must be satisfied that the caravan would be ancillary to the use of 98 Stanley Road, Hinckley as a dwelling and that the proposal would not lead to an independent residential unit. The application is supported by a Planning Statement and Supporting Letter. This sets out that the proposed use for the caravan is for the applicant's aunt who is approaching retirement age and has been diagnosed with COPD.
- 8.15. The mobile home would be large in the context of the residential garden, occupying a large land area, however, its floor space would be smaller than and ancillary to the main dwelling. The floorplans demonstrate that the unit would house a bedroom, open plan kitchen/living area and a bathroom- all the services meaning occupiers would not be reliant on the main dwelling. On the other hand, access to the mobile home would be through the existing dwelling with no second/side access or separate curtilage being provided. The submission sets out that it is intended that the occupant will be regularly preparing and eating meals in the main dwelling, using the living facilities. Whilst the level of services shown in the mobile home does raise some doubt about the ancillary nature of the unit, overall, given the site circumstances and level of information provided in the submission, on the balance of probabilities it is judged that the unit would be ancillary to the main dwelling.
- 8.16. Should it be occupied independently this Lawful Development Certificate would not apply as the description clearly outlines it is for ancillary use.

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

- 10.1. 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 98 Stanley Road and that of the proposed caravan and therefore does not constitute 'development' as such and therefore the particular circumstances of the case do not require planning application to be granted.

11. Recommendation

- **Issue a certificate of lawful proposed use for the siting of one mobile home ancillary to the main dwelling (98 Stanley Road, Hinckley)**

11.2 Reasons

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

- Planning Statement
- Supporting Statement
- Application Form
- Construction Method Statement
- Site and Block Plan Drg 1004
- Proposed Sections and 3d Visual Drg 1003
- Proposed Elevations Drg 1002
- Proposed Floor Plans Drg 1001