
Site Address: 5 Willow Wood Road, Hayling Island, PO11 9BE
Proposal: Application for certificate of lawfulness relating to proposed installation of static caravan in rear garden and conversion of garage to utility room.
Application Type: Certificate of Lawfulness
Application No: APP/24/00547 Expiry Date: 05/09/2024
Applicant: Miss Fay
Agent: Case Officer: Robert Riley
Ward: Hayling West

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

- 1.1 The application site comprises of a detached bungalow located on Willow Wood Road. The vehicular access from the site is a driveway to the side of the dwelling fronting onto Willow Wood Road.
- 1.2 The proposal seeks to site a caravan in the garden to the rear of the site and the conversion of a garage to a utility room.

Planning History

- 2.1 No relevant history.

3 Proposal

- 3.1 Application for certificate of lawfulness relating to proposed installation of static caravan in rear garden and conversion of garage to utility room.
- 3.2 This application for a Certificate of Lawfulness relates to the siting of a chalet style caravan which would sit on a chassis measuring approximately 6.7m by approximately 4.2m with a maximum internal floor to ceiling height of approximately 2.13m, to be used as additional accommodation to the main house.
- 3.2 This is a Section 192 application for a Lawful Development Certificate to establish whether the proposed siting of a chalet style mobile home in the rear garden is lawful. It is claimed that the proposed mobile home, whilst having all the attributes of a dwellinghouse, constitutes a mobile caravan unit under The Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968.
- 3.3 The application documents confirm that the mobile home would have an internal maximum height of 2.13m. The layout would include a lounge measuring approximately 4.15m x 1.8 m, a kitchen measuring approximately 2.9m x 0.6m, a bedroom measuring approximately 3m x 2.9m, a bathroom measuring approximately 2.1m x 1.2m and an open plan living area. Following clarification, it is stated that the unit *"would be used by the two main house residents for additional storage, an extra living room for residents of the house and occasionally family/guest accommodation."*

3.4 The applicant also advises that: *"It would share services, facilities and access with the house"*, and that *" The mobile home would not be used as a separate dwelling;"*.

3.5 The applicant goes on to advise that:

"a) The use would be a use of land within the curtilage of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as such.

"b) No resident of the main house will be living or sleeping in the mobile home, they will both live, eat and sleep in the main house .

4 Legislation

4.1 Relevant legislation and guidance:

Town and Country Planning Act 1990

The Caravan Sites and Control of Development Act 1960

The Caravan Sites Act 1968.

Planning Practice Guidance, 2021

5 Policy Considerations

5.1 Town and Country Planning (General Permitted Development) Order 2015 as amended.

6 Statutory and Non Statutory Consultations

6.1 None relevant.

7 Community Involvement

7.1 Not applicable for an application for a Certificate of Lawfulness of proposed development

8 Legal Considerations

8.1 The application is a Section 192 application for a Lawful Development Certificate which seeks to determine whether the proposed siting of a chalet style mobile home unit to provide additional residential living accommodation as part and parcel of the existing use as a single dwellinghouse is lawful.

8.2 Planning Policy Guidance in relation to Lawful Development Certificates advises that the applicant is responsible for providing sufficient information to support an application and the PPG states:

8.3 In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

It goes on to state:

8.4 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 at any stage in this particular application or appeal process.

- 8.5 The determination of this application therefore turns on the facts of the case and interpretation of the relevant planning law legislation and case law. The Certificate is sought under Section 192 of the Town and Country Planning Act 1990 and the relevant tests are whether the proposed chalet style mobile home would constitute operational development and whether there is a material change to the use of the site. The Applicant submits that the proposed mobile home constitutes a 'caravan' within the meaning of the Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968 and it is therefore not development subject to planning control.

Operational Development

- 8.6 Section 55 (1) of the Town and Country Planning Act 1990 provides the definition of what constitutes development, and this includes the carrying out of 'building' or other operations. Whether a 'caravan' can be considered a 'building' is key to whether the proposal involves operational development.

- 8.7 The legal definition of a caravan is established by Section 29(1) of the Caravan Sites and Control of Development Act 1960 which defines caravans as:

“any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
- (b) any tent;”

- 8.9 The definition of a caravan as amended in the 1968 Act states that such a structure does not fall within the definition of 'caravan' if:

- (a) the length exceed 20 metres
- (b) the width exceeds 6.8 metres
- (c) the overall height (measured internally from the floor at the lowest level to the ceiling at the highest level) exceeds 3.05 metres

- 8.10 However, as a single unit mobile home, it is considered that compliance with the 1968 Act as amended (which deals with twin units) is not strictly necessary - although it is noted that the proposed approximate size (6.7m x 4.2m x 2.13m) does fall within the criteria.

- 8.11 Therefore it is considered that the proposed mobile home does constitute a caravan structure according to section 29(1) of the 1960 Act and does not therefore constitute a 'building' comprising operational development under Section 55(1) of the Town and Country Planning Act 1990.

Material Change of Use

- 8.12 The meaning of “development” under Section 55 (1) of the Town and Country Planning Act 1990 not only includes operational development but also includes “any material change in the use of any buildings or other land.” As such the Council must also establish whether a material change of use will occur through the proposed siting of the caravan on the site.
- 8.13 It is asserted that the intended use would be for occupation by the two main house residents *"for additional storage, an extra living room for residents of the house and occasionally family/guest accommodation"*. The applicants have further stated that the caravan would *"share services, utilities, facilities and access with the house"* and *"not be used as a separate dwelling"*. Furthermore, the applicants regarding room usage stated *"The rooms would be used as following: living room/kitchenette as an additional lounge area with a tv and sofa to provide an additional lounge to the main dwelling and kitchen for additional storage but not for meals or in constant use, shower room for the toilet when in the motor home and occasionally a shower if guests are staying, and the bedroom as a spare room for when guests come to stay and for additional storage for the main house"*. Overall it is considered that the mobile home would be sufficiently physically related and integrated with the host dwelling to provide a functional link and the mobile home would be occupied in an ancillary capacity to the main house.
- 8.14 Given the close physical relationship of the mobile home and main house, as well as close family relationship between occupiers, it is considered that there would be a clear and integral functional link and dependency upon the residential dwellinghouse. As such it is considered that there would not be a material change of use of the land, nor the creation of a separate planning unit.

CIL

- 8.15 The development is a mobile home. Mobile homes are not normally buildings as defined by law therefore no CIL will be charged on them unless the proposal is considered to be a building. In this case the proposal is considered a caravan.

Other neighbourly considerations of the mobile home unit

- 8.16 This application falls under a certificate of lawfulness application and therefore only the legal considerations are appropriate to be assessed. However it is noted that this caravan may increase levels of light pollution and a sense of overlooking upon upon No.2 Ashwood Close and No.47 Elmwood Estate.

Garage Conversion

- 8.17 A garage conversion is able to be done under permitted development rights, furthermore, a planning history check was undertaken in order to check any conditions preventing a garage conversion. This planning history check did not find any preventative conditions preventing this meaning this conversion does not require planning permission.

9 Conclusion

- 9.1 The proposed single unit mobile home conforms to the definition of a caravan under Section 29(1) of the Caravan Sites and Control of Development Act 1960 and would not amount to operational development. The proposed use would be on an ancillary basis with a functional link to the main house which would be an integral part of the main planning unit as a single residential dwellinghouse and would not therefore result in a material change of use. Furthermore, garage conversions are able to be done under permitted development rights and there are no preventative conditions preventing this for No.5 Willow Wood. As such the Certificate of Proposed Lawfulness can be issued in this instance.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/24/00547

For the following reasons:

Havant Borough Council, as Local Planning Authority, certifies that the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged in red on the submitted Location Plan is lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reasons:

- 1) The proposed single unit mobile home falls within the definition of a caravan as set out in Section 29(1) of the Caravan Sites and Control of Development Act 1960.
- 2) The siting of the single unit mobile home would form an integral part of the existing use of the land as a single dwellinghouse and would not result in a material change of use of the planning unit.
- 3) The proposed garage conversion can be undertaken under permitted development rights as there are no restrictive planning conditions preventing this for No.5 Willow Wood.

FIRST SCHEDULE:

This certificate relates to the following development:

Application for certificate of lawfulness relating to proposed installation of static caravan in rear garden and conversion of garage to utility room. as described in the written particulars, plans and other documents submitted with your application received on 11 July 2024.

SECOND SCHEDULE:

This certificate relates to land at 5 Willow Wood Road, Hayling Island, PO11 9BE as shown edged red on the submitted Location Plan received 11 July 2024.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described 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 matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.