

---

|                 |                                                                                                    |               |             |
|-----------------|----------------------------------------------------------------------------------------------------|---------------|-------------|
| Site Address:   | 84 High Lawn Way, Havant, PO9 5BT                                                                  |               |             |
| Proposal:       | Application for Lawful Development Certificate relating to the siting of a caravan in garden area. |               |             |
| Application No: | APP/19/00634                                                                                       | Expiry Date:  | 29/08/2019  |
| Applicant:      | Mr Roberts                                                                                         |               |             |
| Agent:          |                                                                                                    | Case Officer: | Tina Pickup |
| Ward:           | Battins                                                                                            |               |             |

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

---

## **1 Site Description**

The application site relates to an end of terrace two storey dwelling having a single storey side extension. The site comprises a corner site with the siting of this particular terrace set at an angle to the main road, fronting a triangular grassed verge and access road to High lawn recreation ground to the south.

Being a corner site plot the site is prominent in street scene terms. The northern boundary with High lawn Way comprises a high evergreen shrub with fence panels on the inside. A dropped kerb exists on the chamfered corner with close boarded gates (which appear to be permanently sealed up ie now a fence). There is a second vehicular access to the site at its north eastern end adjacent No 86 High Lawn Way and these gates are used providing access to a hardsurfaced area and garage set back within the site.

## **2 Planning History**

95/59935/001 - Single storey side extension., PERM,13/06/1995

## **3 Proposal**

Application for Lawful Development Certificate relating to the siting of a caravan in garden area.

This is a Section 192 application for a Lawful Development Certificate to establish whether the proposed siting of a single unit mobile home in the side garden area is lawful. It is claimed that the proposed single unit mobile home, conforms to the definition of a caravan under The Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968. The submission includes supporting evidence and statement of its use.

A Certificate of Legal Conformity has been submitted by the suppliers of the mobile home. This states that the proposed mobile home would measure 3.65m wide x 10.6m long and 3.05m high. It also states that the structure is designed for human habitation; and a) is composed of not more than two sections; and b) is when assembled, physically capable of being moved by road from one place to another by being towed, or by being transported on a motor vehicle or trailer.

The application documents and plans confirm that the layout of the mobile home would include two bedrooms, one bathroom, one kitchen and a living area. It is stated

that the mobile home would be used as additional accommodation for the extended family of the applicants. Mr & Mrs Roberts own the site and are disabled and the proposed accommodation may be occupied by them with Mr & Mrs Hilton (their daughter and her husband) and their 2 children occupying the main house; or vice versa. Mrs Hilton assists in the care of her disabled parents. The mobile home only has a small kitchenette and therefore major meals would be taken in the house. The caravan's occupants will also rely on the main house for storage of belongings and will depend on the main house for electricity, gas and water with all bills being shared; no new entrance would be created and all occupants would share the whole site.

#### **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, 2014

#### **5 Policy Considerations**

None - Not relevant to Certificate of Lawful Use applications

#### **6 Statutory and Non Statutory Consultations**

None relevant

#### **7 Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

| Comment       | Officer Comment |
|---------------|-----------------|
| None received |                 |

#### **8 Planning 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 single mobile home unit to provide additional residential living accommodation as part and parcel of the existing use of the site as a single dwellinghouse is lawful.
- 8.2 The PPG advises that the applicant is responsible for providing sufficient information to support an application and the PPG states:

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. 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.

- 8.3 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 single unit mobile home would constitute operational development and whether there is a material change to the use of the site.

#### Operational Development

8.4 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.

8.5 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;”

8.6 As a proposed single unit mobile home the consideration is simply whether it falls within section 29(1) of the Caravan Sites and Control of Development Act 1960. In this case it is considered the proposed mobile unit is clearly designed for human habitation, and would be constructed off site and arrive in one piece, demonstrating that it is possible to transport it. Accordingly the proposal is considered to conform to Section 29(1).

8.7 The Caravan Sites Act 1968 expanded the definition of a caravan to include twin-unit caravans. Section 13 (1) of the Caravan Sites Act 1968, provides that:

“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 and other devices; and
- (b) Is, when assembled, physically capable of being moved by road from one place to another (whether being towed, or by being transported on a motor vehicle or trailer),

shall not be treated as not being (or have been) a caravan within the means of Part 1 of the Caravan Sites Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled”.

8.8 The definition of a caravan was further amended in 2006 and states that such a structure does not fall within the definition of 'caravan' if:

- (a) the length exceeds 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

8.9 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 size (10.6m x 3.65m x 3.05m) does fall within the criteria.

8.10 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

8.11 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.

8.12 It is asserted that the intended use would be for occupation by a single extended family with Mr & Mrs Roberts likely to occupy the caravan with support and care provided by their daughter and her family in the house. In the long term the caravan would be used solely as additional recreational space for Mr & Mrs Roberts and sleeping quarters for visiting guests. On this basis the proposed mobile home would provide additional accommodation as part of the primary residential use of the site. It is asserted that the mobile home would only have limited kitchen facilities with main meals being shared in the main house. The garden area is not large and the proposed mobile home would utilise a significant proportion to the side with easy access to 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.

8.13 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

8.14 Since it is concluded at paragraph 8.9 above that the 'caravan' is a 'structure' and not a 'building' or built development, then it is exempt from CIL. The Planning Practice Guidance states that "structures which are not buildings, such as pylons and wind turbines" do not pay the levy. Therefore, in this instance CIL is not applicable. As ancillary accommodation neither is the proposal likely to have an increased effect on the recreational impact of use of the SPA or have a detrimental effect on water quality.

### **9 Conclusion**

9.1 Whilst the proposed siting of the caravan to the side of the dwelling on a highly prominent site would not be visually attractive, nevertheless the merits of the case are not for consideration with this Lawful Development Certificate. The determination of this application turns on the facts of the case and their interpretation in the light of relevant planning law and judicial authority only. The test to be satisfied is the balance of probability.

- 9.2 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. As such the Certificate of Proposed Lawfulness can be issued in this instance.
- 

## **9 RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/19/00634

Havant Borough Council, as Local Planning Authority, certifies that on 04 July 2019 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.

### **FIRST SCHEDULE:**

This certificate relates to the following development:

The siting of a single unit mobile home in the garden for use as additional living accommodation as part and parcel of the existing use of the land as a single dwellinghouse, as shown on submitted drawing numbers:

1:1250 Site Location Plan, Plan No: TQRQM19169191036057 dated 18 June 2019  
Proposed Site Plan Drawing No: 19052 - 103  
Proposed Elevations Drawing No: 19052 - 501  
Certificate of Legal Conformity by Countrywide Caravans Ltd dated 02/08/2019  
Caravan Image - on council's website dated 04 July 2019  
Statutory Declaration of DA Roberts and H Roberts dated 14th May 2019  
Evidence and Use document on Council's website dated 28th August 2019

### **SECOND SCHEDULE**

This certificate relates to land at 84 High Lawn Way, Havant, PO9 5BT, as shown edged red on the submitted Location Plan (scale 1:1250) dated 18 June 2019.