

- 3.3 A Certificate of Legal Conformity has been submitted by the suppliers of the log cabin/mobile home. This states that the proposed mobile home would measure 3.95m wide x 8.65m long (plus eaves overhang) with internal floor to ceiling height of 2.87m. It also states that the structure is designed for human habitation; and a) is composed of not more than two sections and designed to be assembled on 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 by being towed, or by being transported on a motor vehicle or trailer.
- 3.4 The application documents and plans confirm that the mobile home would have an external eaves height of 2.2m and ridge height of 3.14m. The layout would include a single bedroom and lounge, an accessible bathroom and kitchenette. It is stated that the mobile home would be used as additional accommodation for the disabled father of the applicant. He is currently living within the main house but this does not meet his needs due to his disabilities. He requires help with his day to day living and ground floor living accommodation and an accessible bathroom. The cabin would have an electric supply and water supply via the main house ie not as separate services. The limited kitchenette would be for hot drinks and snacks, but all main meals would be taken in the main dwelling; and there will be no washing or laundry facilities. The garden would be shared by all occupants.

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

6 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
No formal comments 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 twin 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 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 twin unit 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

8.4 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 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”.

8.7 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 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

8.8 Therefore to fall within the definition of a caravan, the proposal must meet 3 tests:
i) construction ii) mobility and ii) size.

Construction test

8.9 In Byrne v Secretary of State for the Environment (1997) 74 P. & C.R. 420 it was held that an *“essential part of the construction process in order to bring a structure which would not otherwise be a caravan, within the definition of that which is to be deemed a caravan, that there should be two sections separately constructed which are then designed to be assembled on a site by means of bolts, clamps or other devices. If the process of construction was not by the creation of two separately constructed sections then joined together, the terms of the paragraph are not satisfied.”*

8.10 This was followed by the Planning Inspector in the appeal APP/N1025/C/01/1074589 which concluded *“that whilst the Park Home was delivered by lorry in many pieces there was no requirement in s.13(1)(a) of the 1968 Act that the process of creating the 2 separate sections must take place away from the site on which they are then joined together. It is necessary only that the act of the joining the 2 sections together should be the final act of assembly”*.

8.11 The Applicant has submitted a "Certificate of Legal Conformity" signed by the supplier confirming that the proposed mobile home "is composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices". In addition, the supporting Planning Statement at para 2.13 explains that due to restricted access the twin unit mobile home will be assembled on site but in two parts, with the joining of these parts as the final act of assembly. The final connection joint is shown on the floorplans and elevations. The two parts would include the roof trusses and once joined the whole roof is then covered with roofing felt. An appeal case that considered a 'Terrapin' modular unit confirmed that roof trusses were fixed at a factory and the application of roof tiles did not mean the roof was a third part.

8.12 The proposed construction process for the mobile home therefore satisfies the construction test of Section 13 (1) (a) of the Caravan Sites Act 1968.

Mobility test

8.13 To satisfy the mobility test the courts have held that the structure must be one that is *“capable of being moved as a single unit” this applies to the “whole single structure and not to the component parts of it”*. (Carter and Another v Secretary of State for the Environment and Another 1994 1 W.L.R 1212). The submitted "Certificate of Legal Conformity" confirms that the proposed mobile home 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)". This is reiterated by paragraph 2.13 of the supporting Planning Statement stating that the proposed mobile home would be capable of being moved as one unit with the usual method of transportation being to lift the mobile home unit onto a flatbed lorry using a crane.

8.14 Consideration has also been given to the judgement in Brightlingsea Haven Limited, Hammerton Leisure Limited v Jacqueline Morris, Stephen Foster, Richard Clark [2008] EWHC 1928 (QB) which provides that the mobility test does not require the structure to be moved from where it is sited to another place rather *“it must either be physically capable of being towed on a road, or of being carried on a road, not momentarily but*

enough to say that it is taken from one place to another. It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road.” As such the mobility test is satisfied even though the restricted access of the mobile would make it difficult to reach a road.

- 8.15 It is also noted that the proposed twin unit mobile home would be connected to utility services linked to the main house. Case law has indicated that detachment from such services is a simple and quick matter and is not a physical attachment to the land. In the case of *Measor v SSETR & Tunbridge Wells Borough Council* [1999] JPL 182 the Court held that generally a mobile home would not satisfy the definition of a building, due to its lack of permanence and attachment to the ground. This proposed mobile home would similarly not be permanently fixed to the ground and as such the proposal would meet the mobility test.
- 8.16 Further to this consideration has been given to the judgement in *R. (on the application of Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin); (“Woolley Chickens Case”) which concerned whether the local planning authority had correctly concluded that the prefabricated mobile poultry units on the land was not “development”. The court concluded that the assembly and siting of the mobile poultry units were operational development for the purposes of section 55 of the Town and Country Planning Act 1990. This was considered by the planning inspectorate in the appeal decision APP/Q1255/X/16/3142534, who held that this case is distinguished from the consideration of a certificate of lawfulness for the siting of a caravan as the Woolley Chickens Case had no need to consider the statutory definition of a caravan which has a greater weight for determination.

Size test

- 8.17 In terms of size the proposed twin unit mobile home would measure 3.95m wide x 8.65m long with maximum internal floor to ceiling height of 2.87m. The maximum dimensions allowed under the 2006 amendment to the Caravan Act is 20m x 6.8m with internal floor to ceiling being 3.05m. Therefore the proposed mobile home would be within the maximum allowable, and the proposed dimensions do meet the size test in the definition.
- 8.19 As the proposed mobile home has satisfied the above three tests it is concluded that the proposed structure is a caravan as defined by section 29 of the Caravan Sites and Control of Development Act 1960 and section 13 of the Caravan Sites Act 1968 and is not a building. As such, the siting of the proposed mobile home unit would not be operational development

Material Change of Use

- 8.20 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 established whether a material change of use will occur through the proposed siting of the caravan on the site.
- 8.21 It is asserted that the intended use would be for the disabled father of the applicant who requires ground floor accommodation, an accessible bathroom and assistance with his day to day living, which would be provided by family living in the main house. 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 rear garden is not large and the proposed mobile home would utilise a significant proportion. The comings and goings to the mobile home via a door in the west elevation would therefore be physically related and integrated with the remaining shared private garden

area. It is unlikely that occupation could occur independently of the main house.

- 8.22 Given the health of the intended occupant and close physical relationship of the mobile home and main house, 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.

Other Operational Development

- 8.23 The submission also states that the proposed mobile home would be sited on a concrete base measuring 4m x 8.7m and not exceeding 30cm in height. Whilst the local area slopes, and the adjacent dwelling stepped up at a higher level, this has been achieved via terraced stepping/retaining walls, and the rear garden of the application site is relatively flat. Therefore it is likely that the base would not exceed 30cm in height.
- 8.24 Under Class F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) a hard surface incidental to the enjoyment of a dwellinghouse can be considered permitted development provided it is not more than 0.3m in height. Provided the proposed concrete base is within this 0.3m limit, and it is stated that it would be, then the associated construction of the concrete base would also be permitted development and not require planning permission.
- 8.25 The Council's Legal Department concurs with this recommendation.

CIL

- 8.26 Since it is concluded at paragraph 8.19 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.

9 Conclusion

- 9.1 It is considered that the use of the proposed twin unit mobile home would be an integral part of the main use of the planning unit as a single residential dwellinghouse and would not result in a material change of use. The twin unit proposal is also considered to meet the 3 tests in terms of the definition of a caravan ie construction, mobility and size and can therefore be considered to comply with Section 13 (1) of the Caravan Sites Act 1968 and Section 29(1) of the Caravan Sites and Control of Development Act 1960. 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/18/00094

Havant Borough Council, as Local Planning Authority, certifies that on 31 January 2018 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 twin unit mobile home falls within the definition of a caravan as set out in Section 13 (1) of the Caravan Sites Act 1968 and Section 29(1) of the Caravan Sites and Control of Development Act 1960.

2) The siting of the twin unit mobile home would not result in a material change of use as the proposed use of the 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 twin unit mobile home in the rear 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 produced on 3/10/2017
RL/158/2 v.2 Block Plan scale 1:500 dated 05/03/2018
Floorplan scale 1:50 datum:19/01/2018
Front View scale 1:50 datum:19/01/2018
Rear View scale 1:50 datum:19/01/2018
Left View scale 1:50 datum:19/01/2018
Right View scale 1:50 datum:19/01/2018
Certificate of Legal Conformity by KEOPS dated 19/01/2018

SECOND SCHEDULE

This certificate relates to land at 36 Oakshott Drive, Havant, PO9 5SN, as shown edged red on the submitted Location Plan (scale 1:1250) received 16th November 2017.