

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

This is a revised Section 192 application for a Lawful Development Certificate to establish whether the proposed siting of a twin unit mobile home in the rear garden is lawful. It is claimed that the proposed twin unit mobile home, whilst having the appearance of a log cabin, constitutes a mobile caravan unit under The Caravan Sites

and Control of Development Act 1960 and The Caravan Sites Act 1968. The re-submission provides additional information, case law etc in support of the application. Most notably it is now confirmed that the proposed cabin will be constructed with clamps and bolts as a twin unit with a final connection joint of two halves. The mobile home will also have a chassis ensuring it is capable of being moved. Neither would it be physically attached to the land.

A Certificate of Legal Conformity has been submitted by the suppliers of the log cabin/mobile home. The proposed log cabin would measure 6m wide x 10.15m long (plus roof overhang of additional 1m) and would have eaves height of 2.3m and ridge height of 3.32m. The layout would include a lounge, 2 bedrooms and kitchen.

The Application confirms the mobile home would be used as additional accommodation for family members - children and grandchildren when visiting the main dwelling, which appears to be most weekends and some mid-week stays. The cabin would have an electric supply and be fitted with a limited kitchenette 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, nor any bathroom facilities - those facilities would also be shared 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, 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 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.

- 8.2 The determination of this application therefore turns on the facts of the case and interpretation of the relevant planning law. The Certificate is sought under Section 192 of the Town and Country Planning Act and the relevant tests are whether the proposed twin unit mobile home would constitute operational development and whether there is a material change in use of the site. It is argued in the submission that the proposed building constitutes a 'caravan' under The Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968.

Operational Development

- 8.3 Section 55 (1) of the TCPA 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.
- 8.4 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;”

The Caravan Sites Act 1968 expands the definition of a caravan. Section 13 (1) of the Caravan Sites Act 1968, deals with twin-unit caravans and Section 13 (1) 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”.

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

- 8.5 The proposal must therefore meet 3 tests in terms of construction, mobility and size in order to fall within the definition of a caravan.
- 8.6 In terms of the construction test, this revised application confirms that the proposal is for a twin unit mobile home with the final act of assembly being the joining together of two parts by bolts, clamps or other parts. It is confirmed that the side walls will be joined by full height plates; the two structural chassis and roof beams joined by steel plates straps and bolts.
- 8.7 The Certificate of Legal Conformity now confirms the log cabin would be a 'Twin Unit' and this would meet the tests of Section 13 (1) as the construction test of a caravan.
- 8.8 In terms of the mobility test, the proposed twin unit mobile home would sit on a concrete base and is to be supplied with electricity taken from the main house. Whilst this electricity supply indicates a degree of permanency, case law has indicated that detachment from such services is a simple and quick matter and is not a physical attachment to the land. It is understood that the proposed mobile home would not have wheels, but it is intended to have a chassis which would mean that once constructed, it would in theory be mobile - the usual method of transportation being by road using a crane to lift the mobile home onto a flatbed lorry. On this basis the proposal would meet the mobility test.
- 8.9 In terms of size the proposed twin unit mobile home would measure 6m wide x 10.15m long (plus roof overhang of additional 1m) with maximum internal floor to ceiling height of 2.994m. The mobile home would thus meet the size test in the definition, being smaller than the maximum permitted dimensions of 20 metres (l) x 6.8 metres (w) x 3.05 metres (h).
- 8.10 Therefore the proposed twin unit structure is now considered to satisfy the definition of a caravan as set out in the Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968. Case law has established that as a 'structure' that satisfies section 13 this would not generally also satisfy the definition of a 'building' in the 1990 Act having regard to factors such as permanence and attachment. Therefore the compliance with the definition of a 'caravan' indicates that operational development would not occur and a caravan is not a building.

Material change of use

- 8.11 Regardless of whether operational development has occurred or not, it must also be established whether a material change of use occurs through the siting of the caravan on the site. The existing planning unit comprises a C3 residential dwelling. It is asserted that the intended use would be for family visits including children and grandchildren, and the frequency would appear to be most weekends and some mid-week stays. It is understood that the mobile home would have an electric supply and be fitted with a fridge, cooker and microwave for refreshments and snacks only. It is stated that all main meals would be taken in the main dwelling; and there will be no bathing or toilet facilities provided.
- 8.12 The lack of any toilet or bathing facilities would indicate a genuine reliance on the main house for everyday functions. The rear garden is enclosed on two sides by other residential gardens and the wooded embankment to the river on the other side.

Realistically there would be no alternative access to the site other than via the main house. This would further suggest that the use of the proposed mobile home would have a clear functional link and dependency upon the use of 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.

8.13 The Council's Legal Department concurs with this recommendation.

CIL

8.14 Since it is concluded at para 8.10 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

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/17/01216:

Havant Borough Council, as Local Planning Authority, certifies that on 16th November 2017 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:

RL/151/1 Location Plan scale 1:1250 dated 30/11/2017
RL/151/2 Block Plan scale 1:500 dated 30/11/2017
Floorplan scale 1:50 dated 26/10/2017
Left View scale 1:50 dated 09/11/2017
Right View scale 1:50 dated 09/11/2017
Front View scale 1:50 dated 09/11/2017
Rear View scale 1:50 dated 09/11/2017
Certificate of legal Conformity by KEOPS dated 10/11/2017
Application Report by Rebecca Lords Planning dated 31st October 2017
Ref: RL/151

SECOND SCHEDULE:

This certificate relates to land at 220 Dunsbury Way, Havant, PO9 5BQ, as shown edged red on the submitted Location Plan (scale 1:1250) received 16th November 2017.