



**Use of the land for siting an
ancillary mobile home
(Granny Annexe)**

The Old Dairy Farm
Long Copse Lane
Emsworth PO10 7UL

SUPPORTING STATEMENT

Kim Blunt
MSc Devt Planning



SOUTHERN PLANNING PRACTICE LTD

Registered Office: Youngs Yard, Churchfields, Twyford, Winchester, SO21 1NN
Tel: 01962 715770 Fax: 01962 715880 Email: info@southernplanning.co.uk Website: www.southernplanning.co.uk
Registered in England and Wales No. 3862030

<u>Contents:</u>	Page
1.0 INTRODUCTION.....	4
Legal definition of a caravan or mobile home	5
Development Plan Policy	5
2.0 SITE & SURROUNDINGS	10
3.0 THE PROPOSAL	11
Amount and Layout.....	11
Scale.....	11
Landscaping	11
Access	11
Appearance.....	12
4.0 DISCUSSION.....	13
Legislation – caravans and mobile homes	13
Operational Development	14
The use of land	15
Will operational development be undertaken?.....	15
Size.....	15
Physical attachment.....	15
Construction and mobility	15

Permanence.....	16
Mobile homes/annexes	16
5. ASSESSMENT.....	17
Principle.....	17
Impact on the Strategic Gap.....	17
Impact on the character of the area	18
Impact on neighbouring uses:	18
6.0 CONCLUSION.....	18

APPENDIX A Letter from Mr Kirby's GP, Dr Martin Goodhart, dated 25 June 2013

APPENDIX B East Hertfordshire District Council Appeal Ref: APP/J1915/X/11/2159970

APPENDIX C Elmbridge Borough Council Appeal Ref: APP/K3605/X/12/2181651

PLEASE NOTE: All maps and plans based on the Ordnance Survey are reproduced under HMSO Licence No 100028555

1.0 INTRODUCTION

1.1 The dwelling at The Old Dairy Farm is owned and occupied by Mr & Mrs Williams who operate a commercial equestrian centre and holiday business from the land and buildings. The property is located in the strategic gap and the dwelling and equestrian centre buildings are located on the site of the former dairy farm yards and buildings lying to the east of Hollybank House.

1.2 Mrs Williams' elderly father, Mr Kirby, lives on Hayling Island and is becoming increasingly dependent on the family for support for his day to day living needs. The owners of The Old Dairy Farm need to be at the property most of the time in support of the equestrian and holiday business operated from the site. It is therefore difficult for them to be away from the business and property at The Old Dairy Farm to spend time with the elderly father to provide the support he needs. The family would be able to provide the elderly father with much more effective support if he could live with them at the property in annexe accommodation.

1.3 This statement is therefore in support of an application for use of land at The Old Dairy Farm for stationing a mobile home for use as ancillary 'Granny Annexe' accommodation in conjunction with the main dwelling. The mobile home would be occupied by Mrs Williams' father on the basis of providing annexe accommodation for him in his later years. The statement should be read in conjunction

with the accompanying plans and letter from Mr Kirby's GP at Appendix A.

1.4 The mobile home would be located on existing hard-standing forming part of the outside amenity space and the family occupying the main dwelling would be close at hand. The elderly father would share the residential occupation and enjoyment of the principal dwelling and spend most of his day with the family in the main house including for all his meals and socialising. Other facilities would also be provided by the main dwelling including laundry. The father would also share the outside amenity space with the family occupying the main dwelling and, if they so choose, they could socialise together there as well.

1.5 The proposed mobile home would be used for the same purpose as an integral residential annexe had there been one. The mobile home would be connected to the existing utility services (electricity, water and foul drainage) serving the main house and they would be jointly billed. There would be no subdivision of the planning unit and the mobile home would not be rented out or sold off separately.

Legal definition of a caravan or mobile home

- 1.6 A caravan or structure that meets the definition thereof is not operational development because of its mobility and for the purposes of Section 55, in planning law has the status of a chattel and it is thus a use of the land on which it is stationed. Planning law has also established that although a caravan or structure conforming to the definition thereof has all the facilities required for independent living, a separate independent residential unit is not created where there is a strong functional link between the occupation of the mobile home and the use of the main house. This principle is supported by the appeal decision (East Hertfordshire District Council) at Appendix B and also the appeal decision (Elmbridge Borough Council) at Appendix C. Such ancillary use could be controlled by condition in this case. Further discussion on the relevant legislation is provided at Section 4 below.

Principle

- 1.7 The principle of development is established by the aerial photographs (1 to 3) below which show the extent of the former yards and built development at The Old Dairy Farm and identify the site was previously developed (Brownfield) land. The photographs also show the relationship of the site with other development at the neighbouring property at Hollybank House.

- 1.8 The redevelopment of the former yards and buildings at the Old Dairy Farm to provide the owners dwelling and bed and breakfast accommodation was permitted by Planning Ref: 09/59669/007 dated 09 July 2009. The use is controlled by condition. Another application consideration for conversion of two of the stables to provide two additional en-suite bed and breakfast rooms for use with the equestrian centre has recently been permitted (Ref: APP/13/00390 dated 06/08/2013) The extant permissions establishes the principle of the use of the land for ancillary development.

Development Plan Policy

- 1.9 The Development Plan comprises:

- Havant Borough Core Strategy adopted 01 March 2011
- Saved Policies of the Havant Borough District-wide Local Plan updated March 2011
- Supplementary Planning Documents
- Draft Havant Borough Local Plan (Allocations)

- 1.10 The proposed use is supported by Development Plan policies. In particular, the Core Strategy recognises the importance of meeting the needs of elderly people and at Paragraph 6.29 states that:

‘Proposals for elderly or specialist forms of accommodation need to enable residents to enjoy open space and access shops and facilities, where relevant. Accommodation for the elderly also needs to be flexible so that it can adapt to the changing and particular needs of individual occupants.’

1.11 The Havant Borough District Wide Local Plan saved policy UF1 for Strategic Gaps permits development only where it would not diminish the character of a strategic gap. The proposed mobile home would be located on previously developed land where it would rest on padstones placed on the existing hard-standing. It would form part of the development ancillary to the main dwelling. It would be transported to the site on a lorry and capable of removal when no longer needed. As a chattel, it would be very similar in impact to large feed storage containers or horse boxes.

National Planning Policy

1.12 The proposed use is supported by the National Planning Policy Framework (NPPF) which took effect from March 2012. Being the latest and most up to date Government policy and advice, The Framework is an important material consideration to planning including at local level. In particular, The Framework requires planning to:

- Not simply be about scrutiny but to be a creative exercise in finding ways to enhance and improve the places in which people live their lives (Paragraph 17)
- Proactively drive and support sustainable economic development to deliver the homes, business and thriving local places the country needs (Paragraph 17)
- secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (Paragraph 17)
- recognise the different roles, character and the variety within a given area (and not simply the differences between urban and rural) (Paragraph 17)
- Do all it can to support economic growth in rural areas (Paragraph 28)
- look for solutions rather than problems and seek to approve applications for sustainable development wherever possible (Paragraph 187)



Photograph 1 The Old Dairy Farm site before redevelopment as an equestrian centre (Copyright Microsoft Organisation)



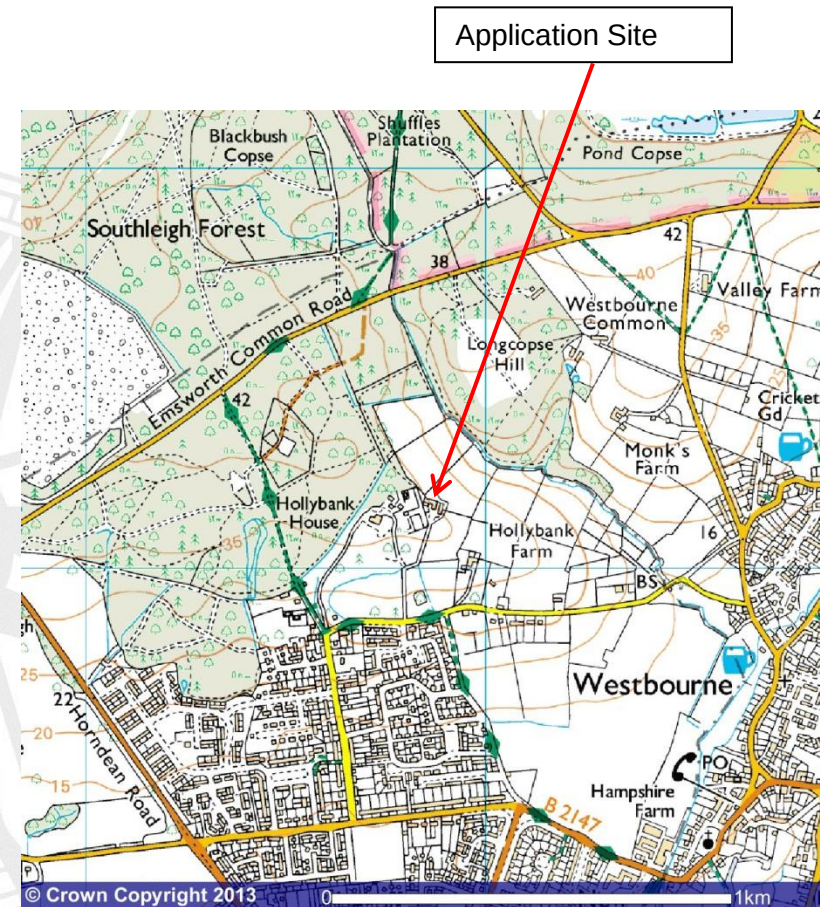
Photograph 2 The Old Dairy farm 2005 (Copyright Google Earth History)



Aerial Photograph 3 The Old Dairy Farm 2001 (Copyright Google Earth History)

2.0 SITE & SURROUNDINGS

- 2.1 The Old Dairy Farm lies to the north of Long Copse Lane and is less than 0.5 kilometre from Emsworth to the south. The land extends to 6.8 hectares and the dwelling is accessed via a private driveway from the road to the south. The land adjoins the dwelling and equestrian centre buildings to the north, south and east and is laid to grazing pasture for the horses. The dwelling and equestrian centre buildings are located on the site of the former farmyard and buildings adjoining the property at Hollybank House to the west which includes a large dwelling with grounds, outbuildings and tennis court. (See Photographs 1 to 4)
- 2.2 The site is enclosed and screened from public views by the surrounding well wooded and treed landscape and mature hedgerows along the internal field boundaries and along the boundary with Long Copse Lane to the south.
- 2.3 The dwelling is two-storeys with attached single storey guest accommodation block providing 5 en-suite bed and breakfast rooms for equestrian centre users. The dwelling and visitor accommodation is served by a wide patio along the length of the front elevation which opens out on to an area laid to hard-standing providing further outside amenity space, parking and turning as well as access to the stable yard, buildings and paddocks.



Reproduced from Ordnance Survey map data by permission of Ordnance Survey
© Crown copyright.

3.0 THE PROPOSAL

Amount and Layout

3.1 Block, elevations and floor plans have been included for consideration. The proposed mobile home would have a floor area of *approx.* 37sqm. The internal height to the ceiling would be 2.2m approx.

3.2 The mobile home would be sited on the existing area of hard-standing forming the outside amenity space inside the west boundary of the site and to the southwest of the dwelling and where it would:

- be located within the curtilage of the existing dwelling and equestrian centre development
- have no significant impact on the character and amenity of the site and surrounding countryside
- maintain a physical and functional tie with the principal dwelling and
- not impact on the operational management of the equestrian centre

3.3 Whilst it is considered the proposed location for the mobile home would be the best place for it for all the reasons given above and elsewhere in this statement, the owners would be willing to consider any reasonable alternatives the Council may have.

Scale

3.4 The mobile home would measure 3.2m approx. to the ridge.

3.5 The mobile home would be well within the prescribed maximum dimension for 'twin unit caravans' as set out in Section 13(2) of the 1968 Act (amended October 2006) and would be a compact structure and modest in scale.

Landscaping

3.6 There are no proposals for landscaping but the owners would be prepared to consider any reasonable requests for landscaping the Council may have.

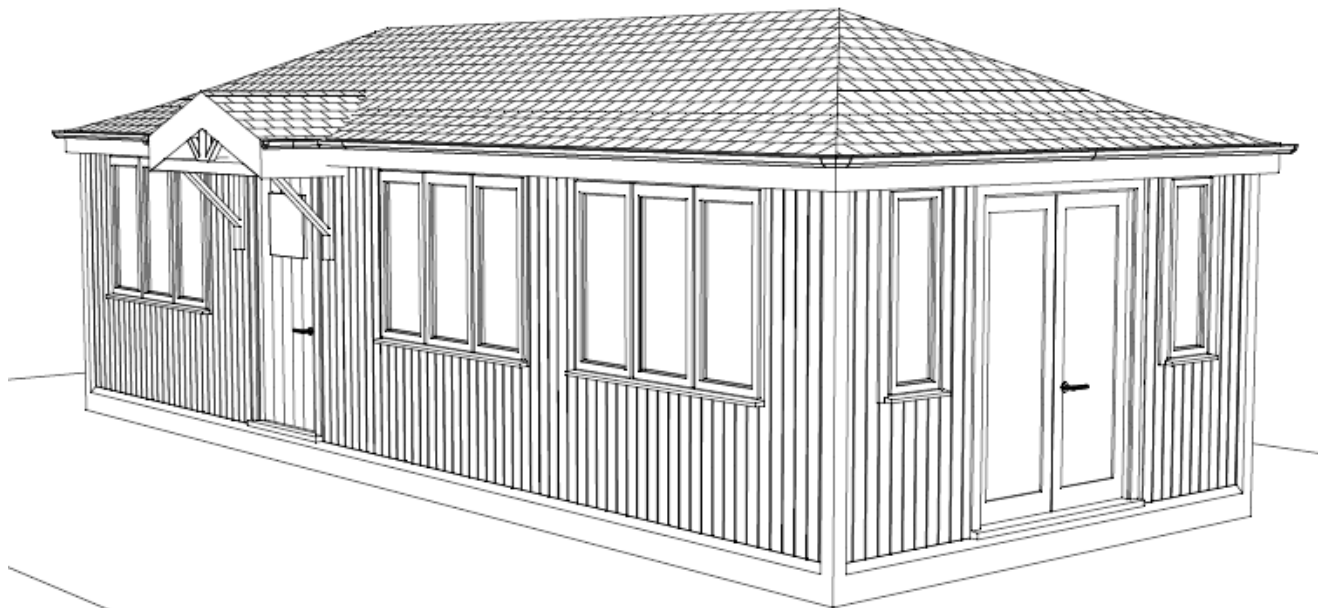
Access

3.7 There are no proposals for alterations to the existing access or parking and turning areas at the site arising from the application.

Appearance

- 3.8 The mobile home would be timber clad with a shingle clad roof. The timber cladding would be finished in a colour that would enable it to blend in to the backdrop of the well treed boundary. The mobile home would be compact and low profile and not significantly different in size to ancillary structures usual to residential amenity space and would be unobtrusive.

Perspective View of the proposed mobile home



4.0 DISCUSSION

Legislation – caravans and mobile homes

- 4.1 The definition of a caravan is provided in section 29(1) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) as follows:

"... 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: Any railway rolling stock which is for the time being on rails forming part of a railway system, or any tent."

Please note that the definition relates to any structure and is not limited to what might in the ordinary sense of the word be thought of as a caravan. There was no description of the materials for such a structure. There was also no requirement that such a structure must comprise one with wheels for movement and transportation as the definition includes transportation on a motor vehicle.

- 4.2 This definition has been modified by Section 13 (1) of the Caravan Sites Act 1968 ("The 1968 Act"), which deals with twin-unit caravans. This 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 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), shall not be treated as not being (or not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled."*

Again, it should be noted that the definition relates to a structure and there is no description as to what that structure should look like. Neither is there any requirement that the structure can only comprise one with wheels. It remains a caravan or mobile home if it can be transported on a motor vehicle.

- 4.3 Section 13(2) of the 1968 Act (amended October 2006) prescribes the following maximum dimensions for "twin unit caravans":

- (a) length (exclusive of any drawbar); 20 metres;
- (b) width: 6.8 metres;
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres.

Whilst the internal height is specified there is no external roof height.

4.4 For planning purposes caravan (and mobile home) has the same meaning as that in the 1960 & 1968 Acts. So far as planning law is concerned, a mobile home comes within the legal definition of a caravan where it meets the tests, as set out by the Acts (as above) being:

- i) it provides habitable accommodation
- ii) it is within the maximum dimensions provided by the 1968 Act
- iii) construction and iv) mobility which in this context means the mobile home must be capable of being moved when assembled from one place to another. This means that it cannot be fixed to the ground.

4.5 The legal definition has been found to be wide enough to include structures and erections which might ordinarily be regarded as a building, but the Courts, as in *Wyre Forest DC v SOS (1990)*, have decided that if something falls within the statutory definition of a "Caravan" as provided by the 1960 & 1968 Acts it cannot also be a "Building" because of its element of mobility. The two definitions are mutually exclusive.

Operational Development

4.6 The matter of whether a structure constitutes operational development requiring planning permission is based on the first element of the definition provided in s55 namely "the carrying out of building, engineering, mining or other operations in, over or under land".

4.7 The House of Lords decision in *Wyre Forest DC v SOS & Allens Caravans Ltd* is the standard authority for using the statutory definitions provided within the 1960 & 1968 Acts and not the ordinary everyday meaning of the word, to determine whether in planning terms a lawful 'caravan' has changed into something that is not a caravan. (Development Control Practice (DCP) 4.353). Permanent works, such as an extension or large porch, which fix the mobile home to the ground, could mean that it would no longer come within the legal definition and could as a consequence be treated as a building.

4.8 The appeal court decision in *Barvis Ltd v SOS (1971)* defined the tests of what constitutes a "building" being size, permanence and degree of physical attachment and is a matter of fact and degree.

4.9 A caravan conforming to the statutory definition provided by the 1960 & 1968 Acts (where it meets all 4 tests listed at i) to iv) at paragraph 3.7 above) is not a building, specifically because:

- The size is limited by the maximum dimensions set out in the 1968 Act and that it must be lawfully transportable when assembled as a single unit or in two parts
- It is not attached to the ground by permanent works. The connection to services can just as easily be reversed and has been found by the courts to be de-minimis
- It is a temporary structure and can be removed when no longer needed

And is therefore considered to be a chattel placed on the land.

The use of land

4.10 A caravan does not therefore fall within the first element (operational) of the definition of development as provided by s55 of the T&CP 1990 Act and therefore falls within the second element of the definition being a use of the land, namely “the making of any material change in the use of any building or other land”.

Will operational development be undertaken?

4.11 The proposed unit would meet the tests to be applied under planning law and there will be no operational development because:

Size

4.12 The proposed unit would conform to the dimensions set out by the 1968 Act and be lawfully transportable when assembled

Physical attachment

4.13 It is proposed to bring the mobile home to the site by lorry and to station it directly onto padstones with no fixing thereto. Case law confirms that this arrangement renders it a mobile home. This strongly points to acceptance on the Council's part that the proposed structure is not a building since if it were then Building Regulations would be applied. The connection to the services serving the dwelling will be de minimis.

Construction and mobility

4.14 The manufacturers confirm the construction of the unit would be sufficient for it to be lifted in to and out of position again, either as a single unit or in two sections, without it breaking up. The unit is therefore capable of being moved by a single motor vehicle or trailer and/or crane and meets the mobility test.

4.15 It is usual for most mobile homes to be delivered as a complete unit or as two halves that are then joined together on site. However there have been planning cases where the issue of the definition of Section 13(1) (a) of the 1968 Act has been the subject of consideration by the Courts. In *Byrne v Sec of State for the Environment and Arun DC* in 1997 it was held that:

“Though the Park Home was delivered by lorry in many pieces, I see no requirement in section 13(1) (a) that the process of creating two separate sections must take place away from the site on which they

are joined together. It is necessary only that the act of joining the two sections together should be the final act of assembly."

- 4.16 In other words a mobile home can be delivered to a site in many pieces but it will then need to be assembled as two parts before being finally joined together. Provided the definition of a caravan/mobile home is adhered to then a building is not being proposed and the correct application of planning law will be to regard the development as being the use of land not building operations. But if it does involve operational development it would fall outside the definition. This means that a mobile home is not caught up in Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 and the subsequent amendment Order No 2 of 2008. The 1960 Act expressly omits from licence control the use as a caravan site incidental to the enjoyment as such of a dwelling house within the curtilage of which the site is situated.

Permanence

- 4.17 There are tests established by the Courts for whether a structure placed on land has a sufficient degree of permanency to be judged "operational" development in terms of sec.55 of the 1990 Act. These tests have become overlain with importations from caravan related legislation. However, if it can be shown that a mobile home having the conventional characteristics of mobility has been brought on to the site or subsequently adapted by the addition of foundations, brick skirts on other permanent additions then this can

be used to claim that the mobile home has lost its mobility. In *Byrne v Sec of State for the Environment and Arun DC [1997]* the issue of mobility was reviewed in relation to a terrace and porch canopy that had been bolted onto the mobile home and decking attached to the chassis. It was held that these were not an integral part of the structure and could be quickly and easily removed. This should be contrasted with adding fixed skirts and full strip foundations.

- 4.18 It is likely the unit at The Old Dairy Farm would be in situ for as long as is necessary to meet the needs of the family occupying the main dwelling. This is true for most mobile homes used ancillary to main dwellings. This does not mean that the unit will remain there permanently. When it is no longer needed it can just as easily be disconnected from utilities and removed from the site. Given this mobility and the fact that it is a pre-constructed unit, there is no doubt that there is a second-hand market for such units when they have served their purpose in one location. In the circumstances it is submitted that no operational development is being undertaken. This view is supported by the Inspector in the East Hertfordshire appeal. (Appendix B).

Mobile homes/annexes

- 4.19 The general approach of the Courts is that it is the actual use of a mobile home that is determinative rather than its potential to be occupied as a self-contained residential unit. It is thus an established principal in planning case law that additional living accommodation, whether by conversion or a mobile home can be

ancillary to a principle dwelling even if capable of semi-independent occupation. This view is supported by the Inspectors in the East Hertfordshire appeal (Appendix B) and the Elmbridge Borough Council appeal (Appendix C).

mobile home would be located on or in close proximity to the footprints of a large former farm building now removed. (See dated aerial photographs at Section 1 above)

5.3 It is an established principle of planning law that:

5. ASSESSMENT

5.1 The Framework confirms that, under planning law, applications for planning permission must be determined in accordance with the up to date development plan, unless material considerations indicate otherwise. In this case it is argued that the proposed scheme is in accordance with Development Plan policies for residential development and other material considerations should also be taken in to account including key Government aims and objectives for

- Replacing poor design with better design
- Securing a good standard of amenity for all existing and future occupiers
- Improving the conditions in which people live and
- Supporting business and economic growth

Principle

5.2 The principle is established by permissions to redevelop the former farm site to provide a dwelling with equestrian centre and holiday accommodation and for ancillary development and uses. The

- a mobile home, conforming to the tests set out in the 1960 & 1968 Caravan Acts is not a building and therefore does not constitute operational development
- even though a mobile home would have all the facilities required for independent living, it is the actual use that is determinative rather than its potential to be occupied as a separate self-contained residential unit

5.4 A use ancillary to the occupation of the main dwelling can be controlled by planning conditions.

Impact on the Strategic Gap

5.5 It is considered the proposed use of land would not diminish the character of the gap/area of the countryside because:

- the land is a brownfield site being a former farm site with yards and buildings
- the proposal does not involve operational development
- the mobile home would be a chattel placed on the land and would not be significantly different in size or character to large feed containers or horse box lorries and trailers

- the mobile home would form part of the existing grouping of development at the site
- the mobile home can be removed from the land when no longer needed

Impact on the character of the area

5.6 The proposed location for the mobile home is considered to be the best place for it because it would be sited where it would:

- not obstruct vehicle access, parking and turning areas
- enable the elderly father to walk between the mobile home and the principle dwelling on the hard-standing which is a level and firm surface
- enable the unit to be easily and continuously surveilled from the principle dwelling and pedestrian routes through the site and provide the elderly parent and his family with greater levels of reassurance
- blend in with the backdrop of the mature trees on the land at Hollybank House behind it and
- minimise any visual or physical impact of the structure on the site and the surrounding context

Impact on neighbouring uses:

5.7 The proposed use of land for siting a mobile home for use as a granny annexe to the main dwelling is in keeping with the existing permitted uses at the site and there would be no material impact on the equestrian centre or other adjoining land uses.

6.0 CONCLUSION

6.1 The applicants run a successful equestrian and tourism business from the property. The business requires the applicants to be resident and available at the site most of the time. The applicants therefore need to be able to provide the elderly father with the support he needs in his later years in annexe accommodation at the site. Where there is a separate residential curtilage, then use of a mobile home incidental to the main dwelling is not development requiring planning permission. In this case, a condition controlling the ancillary use of the mobile home is invited.

6.2 The key elements of the proposal are as follows:

- The mobile home would be a movable structure delivered to the site on a lorry and capable of removal
- It would not be permanently affixed to the ground, only services would be connected

- The mobile home would rest on padstones for the purposes of levelling and there would be no operational development involved
- The mobile home would be occupied by the elderly father of one of the owners and occupiers of the principle dwelling at The Old Dairy Farm
- The father would retain his close family links with the owners and occupiers of the main house
- The mobile home would not be provided with a private curtilage
- The mobile home would form part of the existing planning unit and would not have a separate postal address
- The mobile home would share the existing dwelling's utility services and these would be jointly billed
- The mobile home can be removed from the site when no longer needed
- The use of the land would be ancillary to the occupation of the main dwelling

6.3 It is considered the proposed use of the land would not:

- Create a new and separate residential unit in the countryside
- Diminish the character of the strategic gap/area in the countryside or
- Result in significant harm to the character and amenity of the area or neighbour amenity

6.4 The proposed use of land is therefore compliant with Development Plan Policy. Even if the planning authority considers there is conflict with policy then the question that should be asked is what harm would arise from the proposed mobile home/granny annex. In this case it has been demonstrated there would be no significant harm to the character of the site and surrounding area or gap or to neighbouring uses and the benefits outweigh any impacts and permission should be granted.