



Delegated Report

Lawful Development Certificate Application

Planning Application No: 20230069

Location: Lark Rise, Pondfield Lane Shorne Gravesend

Description: Application for a Lawful Development Certificate in respect of the proposed stationing a 19.0m x 6.7m caravan, to be used for residential purposes as ancillary accommodation to the existing dwellinghouse. Laying a hard surface 21.0m x 8.7m

Applicant: Christopher South

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

Planning Application Form;
Covering Letter;
Site Location Plan;
Drawing No. SD/1 – Block Plan;
Setting out plan, Section and Elevations - Rev F;
Setting Out Plan – Finished Dimensions - Rev F;
Foundation and Drainage – Rev F;
Grounds for Lawful Development Certificate;
Appendix A - Appeal Decision – APP/T3725/X/21/3266375;
Appendix B - Appeal Decision – APP/V1260/X/21/3269291;
Appendix C - Appeal Decision – APP/C1570/X/21/3269440; and
Mobile Home Compliance Report 2023 – Conforming to the Caravans Acts (summary).

Relevant Planning History

Reference	Description	Decision	Decision Date
20220913	Application for a Lawful Development Certificate in respect of the proposed stationing of a mobile home in the garden of the property, for use for hobbies and an integral part of the overall use of the house.	Certificate Refused	01.11.2022
20190598	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Granted	05.08.2019
20190257	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Refused	17.05.2019
20180676	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Granted	13.07.2018
20180416	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Refused	06.06.2018
20150235	Application for a non-material amendment to planning permission reference number 20141000 to allow alteration of ground floor external materials from weather	Approval of Non-Material	10.04.2015

	boarding to render, and changes in the garage window arrangements including an additional window on the rear elevation.	Amendment	
20141000	**AMENDED DRAWINGS/REVISED DESCRIPTION** Erection of two storey infill extension to front, change of fenestration and colour of existing windows, replacement of painted render finish with timber effect horizontal cladding board, construction of three Juliette balconies on the first floor at the front and side, single storey extension at front to form extended porch, erection of balcony to rear, and extension of existing detached garage to form an enlarged triple garage.	Permission	16.12.2014
20140705	Erection of two storey infill extension to front, change of fenestration and colour of existing windows, replacement of painted render finish with timber effect vertical cladding board, construction of three Juliette balconies on the first floor at the front and side, single storey extension at front to form extended porch, erection of mono-pitched canopy to rear and extension of existing detached garage to form triple garage and extended garden store.	Permission	15.09.2014
19990577	Erection of a conservatory at the rear.	Refused	12.10.1999
19891018	Outline Application for the erection of detached bungalow.	Refused	08.02.1990
19850225	Erection of first floor extension over billiard room and part of living room to form bedroom and ensuite bathroom	Permission	22.05.1985
19820414	Erection of single storey side extension to form snooker room	Permission	28.07.1982

Development Plan

As this is an application for a Lawful Development Certificate (LDC) not a planning permission planning policy does not need to be considered.

Consultations, Publicity and Representations

No consultations or publications have been undertaken for this LDC application because there is no statutory duty to do so, however objections have been received from the Dickens Country Protection Society and Shorne Parish Council due to the site being within the Green Belt and An Area Of Outstanding Natural Beauty (AONB). The objections relate to the proposed caravan would constitute a new dwelling in the Green Belt and no special grounds have been put forward to justify overriding the Green Belt Policy, together with a building of this nature would adversely impact the landscape and result in loss of trees, and a detailed application should be submitted instead of a lawful development certificate to allow for further assessment and conditions imposed.

Officer's Analysis

Proposal

This application is for an LDC for the proposed siting of a caravan for ancillary residential use. The application form, cover letter, plans, grounds for LDC document, mobile homes compliance report and appendices submitted in support of the application, provide the following information:

The proposal is for a caravan as defined under the 1960 and 1968 Caravan Sites Acts (as amended);

The caravan will measure 19.0m long x 6.7m wide, with an internal height of 2.9m;

The caravan would not constitute development under section 55(2)(d) of the Town and Country Planning Act 1990 (as amended);

The application site is a single planning unit consisting of Lark Rise and its garden grounds, as outlined in red on the site location plan, the proposed caravan would be located within the residential curtilage of Lark Rise;

The caravan will be ancillary to the main dwellinghouse;

The caravan would, when installed and thereafter remain a moveable structure;

The caravan would not be permanently affixed to the ground, it would rest, under its own weight on a concrete hardstanding measuring 21.0m x 8.7m;

There will be no material change of use of land;

The caravan would be used as ancillary facilities for relatives and guests of the occupants of the main dwellinghouse, meals will be taken in the main dwelling and services will be shared with the main dwelling;

The caravan would not have a separate postal address, will not be physically separated from the main dwellinghouse and will not be registered as a separate unit of occupation with respect to the payment of Council Tax;

The caravan will not be used as a separate residential dwelling.

Lark Rise is located within the Green Belt. As this application is for an LDC the usual policies for Green Belt do not apply. The property is also located within an Area of Outstanding Natural Beauty.

This application is a resubmission of a previous similar proposal which was refused on lack of clarity on the intended use.

Lawful Development Certificate

This application is for a Lawful Development Certificate (LDC) and not for a planning permission. As such, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests with the applicant and the evidence submitted must be of sufficient clarity and precision to enable the local planning authority to understand exactly what is involved. The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009). <https://www.gov.uk/guidance/lawful-development-certificates>

The applicant has set out that the proposed development would meet the definition of a caravan and as such, would be a use of the land and not operational development and that the siting and use of a caravan for incidental and/or ancillary residential purposes, within the existing residential planning unit, would not constitute development.

Section 55(2) (d) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such, shall not constitute development. Therefore, the starting point for assessing this application is to establish whether the proposal constitutes operational development or a use of the land.

The applicant describes the proposal as an incidental and/or ancillary caravan. The definition of a caravan is set out in the Caravan Sites and Control of Development Act 1960, as supplemented by the Caravan Sites Act 1968 and is summarised 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 other motor vehicle so designed or adapted, subject to certain exceptions. Units of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices and not exceeding 20 metres by 6.8 metres externally and internally 3.05 metres when measured from internal floor to ceiling.

Would the proposal meet the definition of a caravan?

With regard to the caravan definition, case law has established three tests which are relevant to the assessment of whether a development is a caravan or a building;

- (1) The size test;
- (2) The mobility test; and
- (3) The construction test.

The size test

To meet the definition of a caravan, a structure must not exceed 20 metres by 6.8 metres externally and internally 3.05 metres (when measured from internal floor to ceiling). The proposed development would have external dimensions of 19.0 metres length by 6.7 metres width and a maximum internal height of 2.9m. As such, the proposal would meet the definition of a caravan in terms of size.

The mobility test

To meet the definition of a caravan, a structure must be capable of being moved. Where a structure has a degree of permanence, through being physically attached to the ground, for example where wheels are removed, brick surrounds are constructed or permanent connections to main services are provided, a structure is no longer able to be moved and it is more accurately described as a building.

The proposed development would not be permanently affixed to the ground and no operational development would need to take place, it would rest, under its own weight, on 'ground screws' or similar'. No details of the physical connection for the proposed services have been provided, but it is noted that the connection of services alone would not amount to a permanent structure. As such, the proposal would meet the mobility test.

The construction test

To meet the definition of a caravan, a structure must be formed of a maximum of two sections constructed or designed to be assembled on site by means of bolts, clamps or other devices. The act of joining the two sections together should be the final act of assembly and the caravan should be capable of being moved as a single structure. The applicant advises that the unit would be a single unit, not a twin-unit. As such, the proposal would meet the construction test.

Overall it is considered that the proposed development would meet the definition of a caravan and be a use of the land and not operational development.

Referring back to Section 55(2)(d), it is now pertinent to consider whether the proposed development would be located within the curtilage of the dwellinghouse known as Lark Rise and if its purpose would be incidental to the enjoyment of the dwellinghouse as such.

Would the proposal be within the curtilage of the dwellinghouse?

Case law informs us that there are three criteria which are relevant in the determination of whether land is within the curtilage of a building;

- (1) Physical Layout;
- (2) Past and present ownership; and
- (3) Past and present use or function.

Bearing these criteria in mind, it is concluded that the proposed location for the caravan is within the residential curtilage of the dwelling known as Lark Rise. The plot within which the dwelling is located is separated from the surrounding neighbouring plots is separated by fencing and hedging. Site plans attached to previous planning applications are consistent with the current site location plan.

Therefore it is considered that the land on which the caravan would be located forms part of the curtilage of the dwelling known as Lark Rise.

Would the proposed development be used for purposes incidental to a dwellinghouse?

The Department of Communities and Local Government Technical Guidance Permitted Development Rights for Householders (April 2019) is helpful giving clarity to the range and type of uses that can be considered as being for a purpose incidental to the enjoyment of a dwelling. It states;

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation nor the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

Whilst it is acknowledged that this advice is in the context of assessing proposals for Class E permitted development, i.e. outbuildings, it provides useful background information.

In planning law there is a fundamental difference between an **ancillary** residential use - generally anything a person could do normally in a standard house as built e.g. eat, sleep, sit comfortably, pray, study, watch TV, shower and an **incidental** residential use - generally everything else, including storage, swimming, bowling, gym, art studio, or something that can be classed as a hobby. An incidental use is "parasitic" on the primary use - it cannot exist without it.

Case law informs us that in terms of assessing whether the proposed development would be an incidental use, there are four relevant considerations;

- (1) The relationship between the respective occupants of the dwelling and the proposed development.
- (2) The relative size of the dwelling, its garden and the proposed development.
- (3) The relative scale of the accommodation contained within the dwelling and the proposed development.
- (4) The degree to which the proposed development is functionally connected to and subordinate to the use of the dwelling.

The relationship between the respective occupants of the dwelling and the proposed development.

The applicant has set out that the proposed development would be used for incidental and/or ancillary use by the occupiers of the dwelling as ancillary facilities for relatives and guests of the occupants of the main dwelling including occasional sleeping facilities for overnight guests. The guests will take their meals in the main dwelling. The caravan will not have a separate address or be physical separated from the main dwelling.

Overall, it is considered that as the caravan would be used by the relatives or guests of the main dwelling and as such there is a close relationship between the respective occupants of the dwelling and the users/occupiers of the proposed development.

The relative size of the dwelling, its garden and the proposed development.

The existing dwelling at the application site has a building footprint of approximately 182.86 square metres (measured externally and excluding the detached garage) and the application site is approximately 14,190.83 square metres in area. The habitable accommodation within the existing dwelling is provided over two storeys with 6 bedrooms.

The proposed development would have a footprint of some 123.72 square metres which would be a smaller footprint to the existing dwelling.

It is considered that the size of the proposed development in comparison to the host dwelling and the site that it sits within would not be excessive.

The relative scale of the accommodation contained within the dwelling and the proposed development and the degree to which the proposed development is functionally connected to and subordinate to the use of the dwelling.

The floor plan for the caravan shows 1 bedroom, a bathroom and open plan living room and kitchen area. The internal area would be 109.49 square metres which would be less than the footprint of the host dwelling so it does not appear to be excessive. The scale of the space provided appears subordinate to the dwelling and the wider application site. Although the caravan is capable of being used as a separate dwelling there is a significant amount of case law and planning appeal decisions that this does not mean that this will be the case and is not sufficient to refuse to grant an LDC.

The use of the caravan is as ancillary facilities for relatives and guests of the main dwellinghouse. It is stated that there is no intention that the caravan will be made available for separate, independent, residential use. The services such as water and electrical supply would be shared by the main property and the caravan will not be registered a separate unit of occupation with regards Council Tax. There would be no physical separation of land. Therefore, it is considered that the proposed use would constitute a close functional connection between the occupiers of the caravan and the main dwelling as it would be used by the occupiers themselves or their overnight guests.

Overall, taking the four factors into consideration, it is concluded that the proposed development would be used for purposes incidental to the dwelling at the application site.

It is noted that the Dickens' Country Protection Society has made representations objecting to the proposed development on the grounds that the site is in an area within which Green Belt policies apply where new residential development would not normally be permitted. However, as this application is for a LDC and is to be judged on the facts of the case and the interpretation of any relevant planning law or judicial authority only, these representations cannot be taken into account in the determination as they do not provide any evidence in respect of or counter to the claim that the proposal would be a lawful use of the land.

Conclusion & Recommendation

The proposed development would, based on the evidence provided, be a caravan that would be located within the curtilage of the dwellinghouse known as Lark Rise and be used for purposes incidental to the enjoyment of that existing dwellinghouse. The submitted details have been considered carefully and have informed this analysis of the proposed development. There is a fine judgement here given that the caravan could easily be construed as and regarded as a building or the it will be used a separate residential dwelling.

However, in this case and as a matter of fact and degree and taking into account relevant planning law, planning appeal decisions and judicial authority, it is the opinion that the proposed development would not amount to development requiring planning permission, provided that it is used in line with the submitted application details.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	22 nd March 2023	Dated:	23rd March 2023