

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240810
Location	278 Lower Higham Road Gravesend Kent DA12 2NR
Proposal:	Lawful Development Certificate application for the proposed provision of a twin unit mobile home (not operational development) within the garden of the lawful dwelling house for use as additional accommodation by one household (not a material change of use).
Applicant:	Mr & Mrs Coston
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form;
 Supplementary Information – Appeal Decision Notice under Ref: APP/Z5630/X/21/3277752;
 Supplementary Information – Appeal Decision Notice under Ref: APP/Q1255/X/16/3142534;
 Supplementary Information – Appeal Decision Notice under Ref: APP/N1025/C/01/1074589;
 Supplementary Information – Appeal Decision Notice under Ref: APP/B5480/C/17/3174314;
 Supplementary Information – Appeal Decision Notice under Ref: APP/J1915/X11/2159970;
 Supplementary Information – Appeal Decision Notice under Ref: APP/K2230/X/13/2190398;
 Supplementary Information – Appeal Decision Notice under Ref: APP/P2365/X/09/2109940;
 Supplementary Information – Appeal Decision Notice under Ref: APP/K3605/X/12/2181651;
 Supplementary Information – Appeal Decision Notice under Ref: APP/X1545/X/16/3151073;
 Supplementary Information – Appeal Decision Notice under Ref: APP/a1530/X/17/3177321;
 Supplementary Information – Notes of Cases;
 Supplementary Information – Lawful Development Certificate Application Report;
 Supplementary Information – Caravan Compliance Information Pack;
 Drawing No. 224031-02 – Caravan Elevations and Floor Plan;
 Drawing No. 224031-05 – Caravan Easypad Layout and Section;
 Drawing No. 224031-06 – Site Location Plan; and
 Drawing No. 224031-07 – Block Plan – Proposed.

Material Consideration

This is an application for a Lawful Development Certificate (LDC), considered in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, Local and National Planning Policies are irrelevant to this application.

Relevant Planning History

No relevant history.

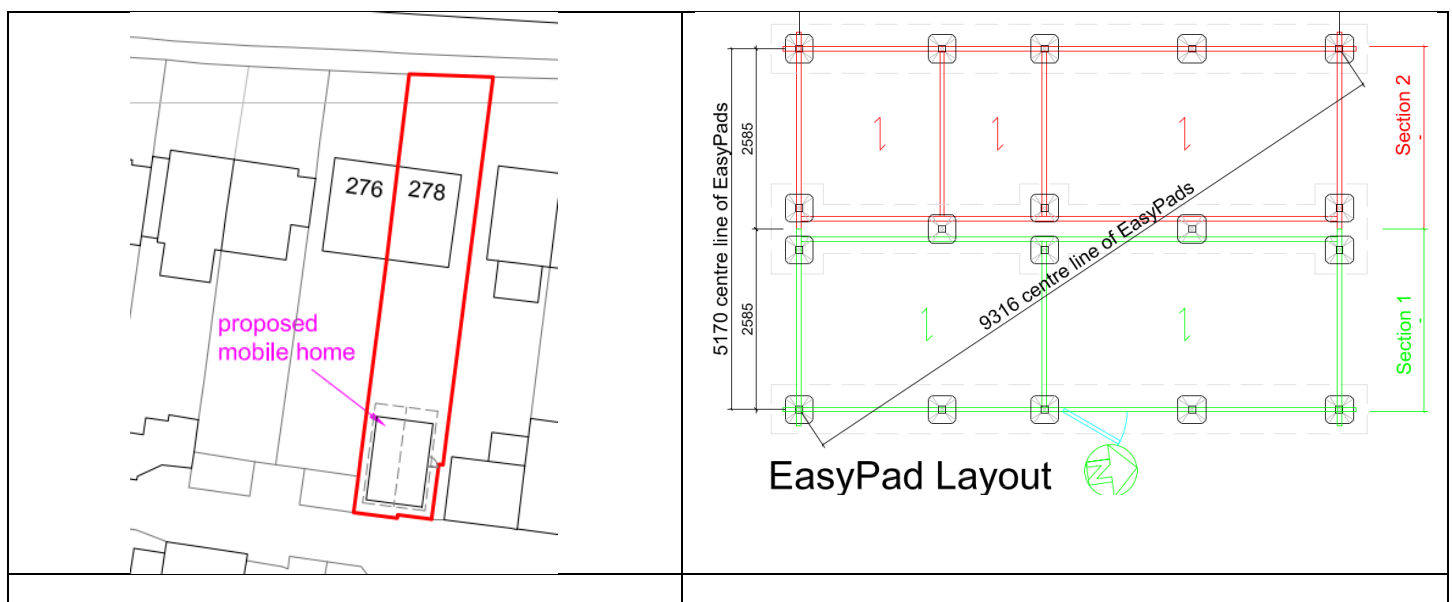
Officer Assessment

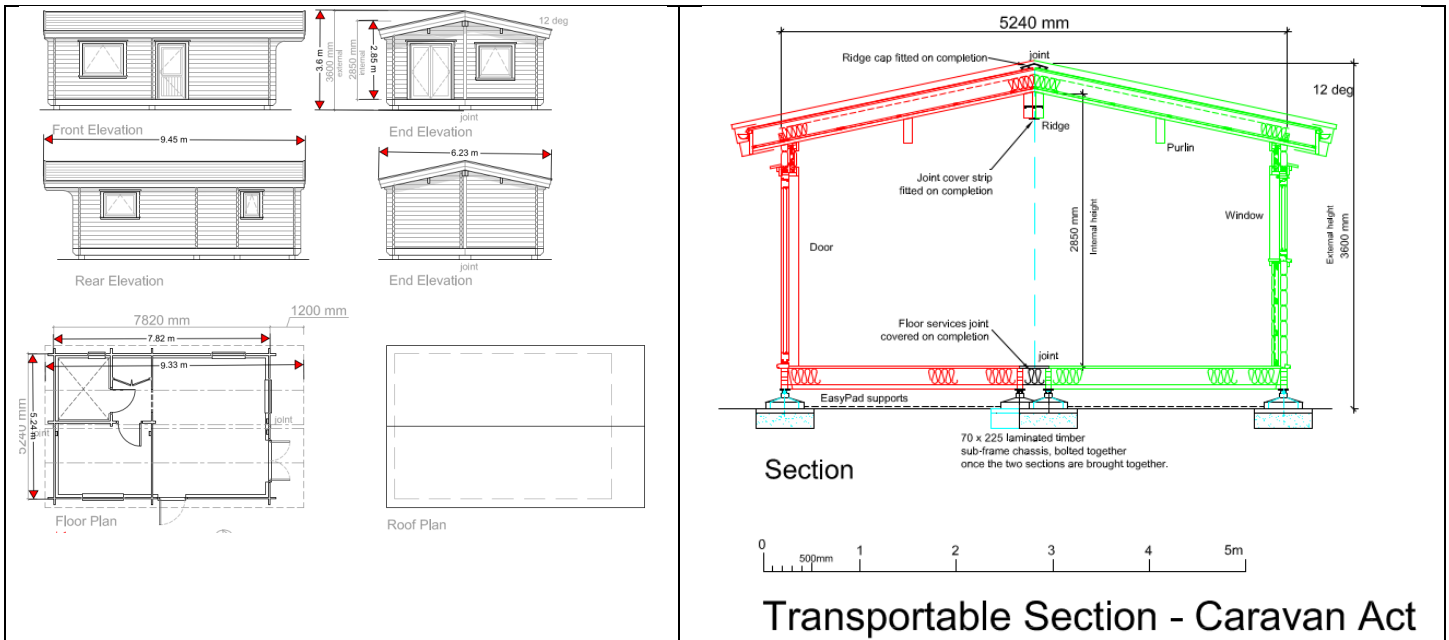
This application is for a Lawful Development Certificate for the proposed provision of a twin unit mobile home (not operational development) within the garden of the lawful dwelling house for use as additional accommodation by one household (not a material change of use). An application form, plans, various appeal decisions, Application Report and Caravan Compliance Information Pack have been submitted in support of the application.

The information provided states the following:

- The proposed mobile home unit complies with the legal definition of a caravan in terms of size, assembly and mobility and will be used as additional accommodation to the existing dwelling by the existing occupants of the dwelling, and as such will not comprise either operational development or a material change of use and is not therefore development within the meaning set out in S.55 of the Town and Country Planning Act 1990.
- The application site is a single planning unit (C3 Dwellinghouse) consisting of 278 Lower Higham Road and its garden grounds, as set out on the block plan. The proposed caravan would be located within the residential curtilage of 278 Lower Higham Road.
- The area of the garden for the siting is level and has a close physical and functional association to the dwelling house. There is an existing hard surface, in order to provide level siting of the mobile home unit, which will sit on adjustable base pads that are de minimis.
- The dwelling house and its occupation by the applicant and their family is lawful. There are no know planning enforcement notices, conditions, or Article 4 Directions to prevent the siting of a twin unit mobile home in the garden of the property for use as additional accommodation within the single residential planning unit.
- Although there is a service road to the rear of the site no separate vehicle access or parking area to serve the mobile home unit is proposed as can be seen in the block plan.

Proposed Plans





General approach - Lawful Development Certificates

This application is for a Lawful Development Certificate (LDC) and not for planning permission, as such, the application is not assessed against national and local planning policy. The government guidance on Lawful Development Certificates (<https://www.gov.uk/guidance/lawful-development-certificates>) sets out the process for obtaining a LDC for existing or proposed use. The advice states that, the *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... the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land... 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.*

The information provided with this application sets out that the proposed development would meet the definition of a caravan, and that the provision of a twin unit mobile home, in the garden of the existing family home, to provide additional accommodation for family use, would not result in operational development or a material change of use, and as such planning permission would not be required.

Therefore, the assessment of this application needs to consider the following:

- Would the proposal constitute operational development?
- Does the proposal meet the statutory definition of a caravan?
- Would the proposal result in a material change of use?

Operational Development

Section 55 (1) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out the meaning of development as follows:

“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under

land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act “ building operations ” includes—

- (a) demolition of buildings;*
- (b) rebuilding;*
- (c) structural alterations of or additions to buildings; and*
- (d) other operations normally undertaken by a person carrying on business as a builder)*

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 be taken for the purpose of the Act to involve development of the land. As such, it must now be considered whether the caravan would be situated within the curtilage of the dwellinghouse and whether there would be a change in the use of the land.

The stationing of a caravan within an existing residential curtilage normally constitutes a ‘use’ of the land, rather than operational development. Therefore, it is imperative to establish whether the proposal would be considered a caravan or not.

Statutory Definition of a Caravan

In the first instance, it is important to establish whether the proposed twin mobile home would meet the statutory definition of a caravan. This is set out in the Caravan Sites and Control of Development Act 1960 (as amended). Section 29(1) of this Act defines a caravan 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;*

This definition was amended by the Caravan Sites Act 1968. Section 13 of this Act relates to “twin-unit caravans” which are defined as follows:

(1) 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 as 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 so moved on a highway when assembled.

(2) For the purposes of Part 1 of the Caravan Sites and Control of Development

Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely –

(a) length (exclusive of any drawbar): 20 metres;

(b) width: 6.8 metres;

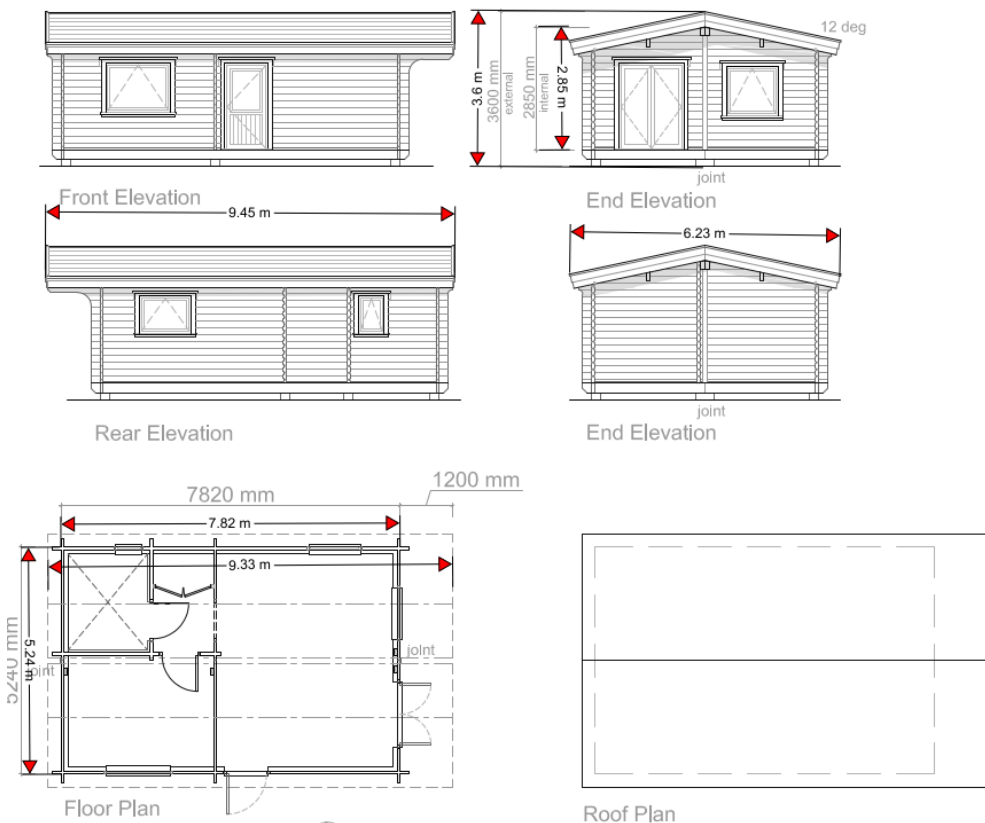
(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres.

Case Law has established that in order to be defined as a caravan, three tests (as set out in the above definition) must be satisfied (the 'size test', the 'construction test' and the 'mobility test').

Would the proposal accord with the definition of a caravan?

The size test

To meet the definition of a caravan, the structure should not exceed 20.00m x 6.80m externally, and 3.05m (when measured internally from the floor to the ceiling). The plans provided with this application, sets out the dimensions below (Local Planning Authority measurements indicated in red and black):



As evidenced above, the proposal meets the definition of a caravan in terms of size.

The Mobility Test

To meet the definition of a caravan, the structure must be capable of being moved. The plans and information submitted show the caravan would not be permanently fixed to the ground. It would be sited on an existing hard surface, on top of Easypad supports, with Hurricane Anchors used to hold the mobile home in the correct position. Electricity, water and foul drainage would be extended and connected from the existing dwellinghouse and all services can quickly and easily be disconnected and terminated if the mobile home is moved or removed from site. In the event the mobile home is moved or removed from site, *the EasyPAD's, flag stones, incremental packers and anchors can easily be lifted and removed for re-use elsewhere, and the site reinstated with little effort.*

In terms of moveability, as set out within the Caravan Compliance Information Pack, *Norwegian Log Mobile Homes are designed to be moved as a whole, in the case of a twin unit caravan, both as individual sections and as a whole once the two sections have been connected together.*



'In the event that the unit is required to be removed from site, we would lift the unit from the site on to appropriate transportation. As with the moving of any large caravan or mobile home the access and road conditions to & from site would have to be made suitable for the purpose. The transportation of this size of unit on the UK roads may not be lawfully possible and there-fore it may necessitate the dismantling of the unit into its two sections'.

In summary, the mobile home would not be permanently affixed to the ground and connections to utility services would be in place, but are reversible and are not separate to the main house. In any case, the connection of services alone would not amount to a permanent structure. Therefore, 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. In this case, the two sections of the twin unit caravan would be independently assembled, they would then be brought together by lifting or wheeling them into position, with the final act being connection of the two sections to form a whole. As aforementioned in the mobility test section above, the mobile home is capable of being moved as one unit. As such, the proposal would meet the construction test.

Overall

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.

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.

The information provided with the application states that 278 Lower Higham Road is in use as a residential family dwellinghouse. The plans show that the proposed caravan would be sited within the rear garden of the property, and google aerial images indicate the plot within which the dwelling is located, is separated from the surrounding neighbouring plots by boundary treatments. As such, it is apparent that the caravan would be sited within the curtilage of the dwellinghouse.

Would there be a material change of use of the land?

Whilst the caravan, by way of its size and facilities, could be considered to be used as a separate independent dwelling, the information provided with this application highlights that the caravan would be used by a family member that currently resides in the main dwelling. There would be no separate access and the single main use will remain as a family dwellinghouse and is therefore one planning unit. In addition, the Application Report states:

1. The mobile home unit will not be physically separated from the rest of the garden of the main dwelling.
2. The garden will be shared by all occupants.
3. No separate services are proposed, there will be one household electricity and water bill.
4. There would be no separate postal address.
5. The proposed mobile home unit will provide bedroom, bathroom and living room accommodation with limited kitchenette facilities for the preparation of hot drinks, and snacks.
6. The family will regularly share meals together in the main house.
7. The family will socialise with each other in the living room and all family members will have access to other areas of the house and the mobile home unit.
8. There will be no washing machine or laundry facilities other than in the main house, these will be used by all family members.

In the dismissed appeal at Sheridan, Walnut Hill Road, Gravesend (APP/K2230/X/19/3222526), the Planning Inspector refers to the parties consideration of incidental use. The Inspector states, *'the parties refer to the cases of Uttlesford DC and Whitehead. Uttlesford DC concerned an appeal relating to the change of use from*

a detached garage to a granny annexe. The Court held that the Inspector had been correct in concluding that the garage with living accommodation would remain part of the same planning unit as the dwellinghouse and that there was, accordingly, no material change of use.' Furthermore, the Inspector goes on to state the 'case of Whitehead also refers to Emin, where the Court considered that the relevant consideration was the nature and scale of the activities taking place in the building, rather than the physical size of the building in relation to the size of the dwellinghouse. Size may be an important consideration but not by itself conclusive. The test is whether the uses of the proposed buildings, when considered in the context of the planning unit, are intended and will remain ancillary or subordinate to the main use of the property as a dwellinghouse'. The evidence provided shows that the caravan would be used ancillary to the existing dwellinghouse. Furthermore, the plans showing the scale of the caravan, existing dwelling and overall plot demonstrate the mobile home would also be subordinate in scale. In this instance, the mobile home meets the definition of caravan, and in accordance with the evidence provided, and the above, can therefore be considered incidental. Overall, on the balance of probability, and given the evidence and case submitted, the mobile home would not constitute a change of use of the land, and would form part of the existing planning unit.

Conclusion

The proposed development would, based on the evidence provided, be a caravan that would be located within the curtilage of the dwellinghouse known as 278 Lower Higham Road and would not result in a material change in use of the land. There has to be a balance of judgement, given that the caravan could easily be construed as and regarded as a building or that it could be used a separate residential dwelling. The submitted details, case law and appeal cases cited by the applicant have been considered and have informed this analysis of the proposed development.

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 proposal would not require planning permission, provided that it is used in line with the submitted application details.

Recommendation: <u>Grant</u> Lawful Development
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Case Officer:	Mrs Lucy Hankin	Team Leader:	Richard Hart
Signed:	L Hankin	Signed:	<i>R Hart</i>
Dated:	24th October 2024	Dated:	30th October 2024