

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260070
Location	Carousel, 61 Rhododendron Avenue Meopham Gravesend
Proposal:	Application for a Proposed Lawful Development Certificate; Siting of a mobile home.
Applicant:	Mr George Angell
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form
Site location plan
Caravan elevations
Caravan support details
Drawing no. 0315 (proposed site plan)
Drawing no. 0314 (existing site plan)
Drawing no. 0313 (floor plan)

Property Type

The property comprises a detached chalet bungalow.

Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Relevant Planning History

19960801	Erection of single storey side extension to form bedroom, bathroom and enlarged kitchen.	Permitted	24.04.1997
19960800	Change of use of part of residential garden to boarding cattery and erection of 8 pens and runs.	Application Refused	29.01.1997
19590400	the erection of one week-end chalet	Application Refused	26.02.1960

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	Y

General Approach

This application is for a LDC and not for a planning permission and therefore, 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 applicant is responsible for providing sufficient information to support the application and the proposal must be described with sufficient clarity and precision to enable the Local Planning Authority (LPA) 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).

Details of the proposed development

The applicant has submitted a number of plans/documents, which are set out in the Plans & Documents Section above.

The applicant is proposing the siting of a mobile home for ancillary residential use in the rear garden of the application property. He states that the proposal meets the definition of a caravan and does not constitute operational development or result in a material change of use and therefore does not require planning permission.

The mobile home would be located entirely within the residential curtilage of the dwelling and have a length of 12.2 metres, a width of 6.1 metres and an internal height of 2.6 metres. The caravan will have a fixed chassis which is on wheels. The chassis will be supported with a combination of 16 x axle stands and 36 concrete blocks placed under the chassis for support. The caravan will be transported to site in 2 x pre fabricated sections of equal size (12.2m x 3.05m) on the back of a low loader lorry. They will be positioned on site by use of 4x4 Land Rover type vehicles. Once positioned on site the 2 x sections will be secured together by way of mechanical bolts. Because the proposal is for a caravan it will be able to be moved as both sections have a chassis with wheels.

The caravan would be capable of being transported, once assembled and any connections to services would be easily reversible.

The caravan would be occupied by carers for the applicant who are the 'next of kin'. There would be no separate services, utilities, postal address, parking/access or garden area. As such, the applicant considers that the mobile home would have a clear functional relationship with the main dwelling and there would be a single planning unit.

Background

Planning Application reference 19960801

This permission granted the erection of a single storey side extension to form a bedroom, bathroom and enlarged kitchen but removed permitted development rights for outbuildings by condition as per below:

SUBJECT TO THE CONDITIONS SPECIFIED hereunder:-

- (i) The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
- (ii) Before the development hereby permitted is first commenced, details of all external materials and finishes shall be submitted to and approved, in writing, by the District Planning Authority.
- (iii) No outbuildings or garages, other than those identified on the approved plans, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, shall be constructed on the site without the prior permission, in writing, of the District Planning Authority.

Cont/d

and the grounds for the imposition of such conditions are:-

- (i) In pursuance of Section 91 of the Town and Country Planning Act 1990.
- (ii) In the interests of visual amenity.
- (iii) In the interests of amenity and in order to comply with the Borough Council's policy for the Culverstone Valley Area.

However, the placing of a caravan within a residential curtilage can be considered to not comprise 'development'. Development is defined by the Town and Country Planning Act 1990 as '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'.

If this is found to be the case then the removal of permitted development rights is inconsequential.

Officer Analysis

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.

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.

The stationing of a caravan on land normally constitutes a use of the land, rather than operational development. However, in certain circumstances, a caravan can be considered as a building and therefore can be operational development. Furthermore, and pursuant to Section 55(2)(d) of the Town and Country Planning Act 1990 (as amended), whether a caravan would be within the curtilage of a dwellinghouse and whether its proposed use would be for purposes incidental to the enjoyment of a dwellinghouse, are also relevant considerations in determining whether a caravan constitutes development.

Therefore, in order to determine whether the proposal constitutes development, it is necessary to consider the following;

- Does the proposed development meet the statutory definition of a caravan?
- Would the proposed development be within a residential curtilage?
- Would the proposed development be for purposes incidental to the enjoyment of a dwellinghouse?

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 must be satisfied (the ‘size test’, the ‘construction test’ and the ‘mobility test’).

The size test

To meet the definition of a caravan, the structure should not exceed 20 metres (length) x 6.8 metres (width) externally, and 3.05 metres (height) when measured internally from the floor to the ceiling.

The proposed development would have external dimensions of 12.2m (length) by 6.1m (width) externally. The applicant has confirmed that the internal floor height would be 2.6m and therefore will not exceed 3.05m. 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.

The information submitted within the application form states that the unit will not be permanently affixed to the land and will retain its mobility. It also states that the unit will share the same access, services and domestic facilities as the main dwelling.

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.

The application form states that the mobile home would meet the definition of a caravan under the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, in that it is capable of being transported in one or more sections, is constructed so that it can be moved on a highway, and does not exceed the statutory size limits.

The information submitted shows an image of a twin unit caravan. The applicant has also provided details of the construction of the caravan and how it is fixed to the ground. As discussed above the caravan will have a fixed chassis which is on wheels. The chassis will be supported with a combination of 16 x axle stands and 36 concrete blocks placed under the chassis for support. The caravan will be transported to site in 2 x pre fabricated sections of equal size (12.2m x 3.05m) on the back of a low loader lorry. They will be positioned on site by use of 4x4 Land Rover type vehicles. Once positioned on site the 2 x sections will be secured together by way of mechanical bolts. Because the proposal is for a caravan it will be able to be moved as both sections have a chassis with wheels.

It can therefore be concluded that the proposed development would meet the definition of a caravan. As such, the proposal would not be operational development, rather it would be a use of the land.

Referring back to Section 55(78)(d), it is now pertinent to consider whether the proposed development would be located within the curtilage of the dwellinghouse known as Carousel, 61 Rhododendron Avenue and if its purpose would be incidental to the enjoyment of the dwellinghouse as such.

Residential Curtilage

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 application property, no. 61 Rhododendron Avenue is in use as a single family dwellinghouse. The submitted plans show that the proposed caravan would be located at the western end of the rear garden. Aerial photos show the rear plot is separated from neighbouring gardens by boundary treatments. The application form states that the applicant is the owner of the land. As such the proposed development would be located within the curtilage of the dwelling known as no. 61 Rhododendron Avenue.

Incidental/ancillary use

In order to comply with Section 55(2)(d) of Part 3 of the Town and Country Planning Act 1990 (as amended), the proposed caravan must be used for any purpose incidental to the enjoyment of the dwellinghouse at the application site.

The Department of Communities and Local Government Technical Guidance Permitted Development Rights for Householders (September 2019) is helpful in 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 or 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 application details set out that the proposed mobile home would be occupied by carers who are necessary to support the day-to-day care and welfare of the occupant of the main dwelling. As such, it is considered that there would be a close relationship between the occupants of the dwelling and the users/occupiers of the proposed mobile home.

The existing dwelling at the application site has a building footprint of some 75sqm (measured externally) and has two bedrooms, a kitchen/dining room, a lounge and two shower/WCs. There are also two sheds in the garden.

The application site has an area of 1,840 square metres and the footprint of the proposed mobile home (measured externally) would be 74.42 square metres. Overall, the size of the proposed caravan is similar to the size of the existing dwelling however it would not be excessive when compared to the size of the plot (and also fits within the dimensions stated in the caravan act).

The proposed mobile home would provide an open plan, lounge/diner/kitchen, two bedrooms, a bathroom, shower room and a store.

By way of comparison, the government's Technical Housing Standards - Nationally Described Space Standard sets out a minimum floor area of 61 sqm for a two bedroom, three person single storey residential unit. Therefore, the residential accommodation within the proposed mobile home would be well above an appropriate size for a three person independent residential unit. As such, and due to the provision of all facilities to be independent of the main dwelling, the users/occupiers of the mobile home would not need to utilise the main dwelling to fulfil some of their day to day domestic requirements.

The applicant has set out that:

The mobile home is required to provide on-site accommodation for carers who are necessary to support the day-to-day care and welfare of the occupant of the main dwelling. The presence of carers on the site enables continuous and responsive care, including during night-time and emergency situations, which cannot be reasonably provided from off-site accommodation. The mobile home will be used solely as ancillary accommodation to the main dwelling and will not operate as a separate, independent residential unit. Its use is therefore incidental to the lawful residential use of the property and does not constitute the creation of a new planning unit.

There will be no separation of the caravan from the main dwelling. The accommodation will share the same access, services, and domestic facilities as the main dwelling, and its use will be subordinate to and dependent upon the primary residential use of the property.

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

Conclusion

As a matter of fact and degree and taking into account relevant planning law and judicial authority, it is considered that the proposed development would be located within the curtilage of the dwellinghouse known as no. 61 Rhododendron Avenue, it would meet the definition of a caravan and it would be used for purposes incidental to the use of that dwelling.

As such, and in line with Section 55(2)(d) of Part 3 of the Town and Country Planning Act 1990 (as amended), the proposed development would not meet the definition of development (provided that the mobile home is constructed and used in line with the submitted application details) and planning permission would not be required. The proposal would therefore be lawful and pursuant to section 192(2) of the Town and Country Planning Act 1990 (as amended), a Certificate of Proposed Lawful Development/Use can be granted.

Recommendation: <u>Grant</u> Lawful Development Certificate
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Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	9 March 2026	Dated:	11th March 2026