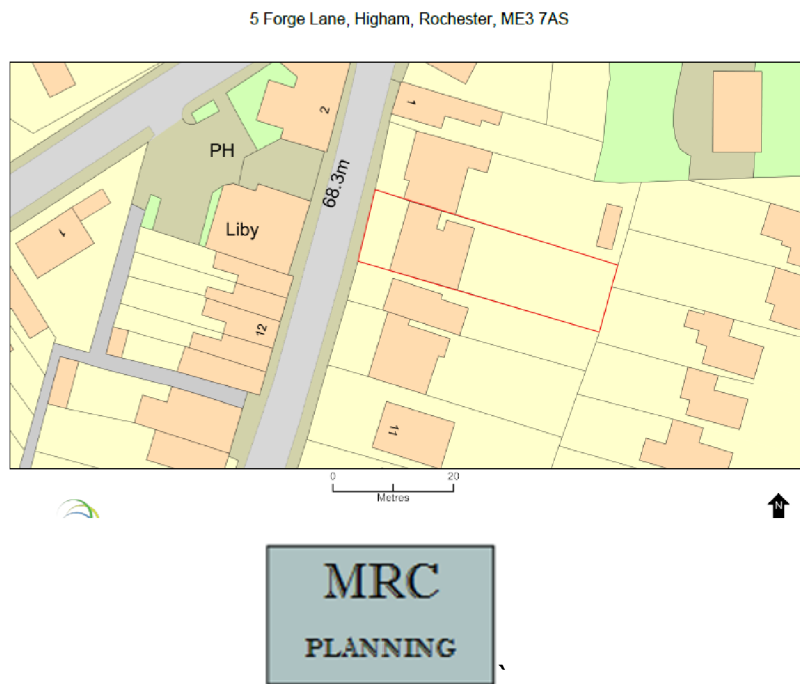


Application for Certificate of Lawful Use for the proposed siting of a Caravan/Mobile Home for ancillary residential use in garden at 5 Forge Lane, Higham, Rochester, ME3 7AS

Statement of Evidence



MRC Planning Limited, Longton Villas 4 Clarendon Street, Bedford, MK41 7SJ

This document has been prepared for the sole and confidential use and reliance of MRC Planning Limited's client. MRC Planning Limited accepts no liability for any use of this document other than by its client and only for the purposes for which it has been prepared and provided. No person other than the client may copy (in whole or in part), use or rely on the contents of this document, without the prior written permission of the Directors of MRC Planning Limited.

Any advice, opinions or recommendations within this document should be read and relied upon only in the context of the document as a whole.

STATEMENT STRUCTURE

- 1.0 INTRODUCTION**
- 2.0 BACKGROUND**
- 3.0 USE FOR SITING OF A CARAVAN**
- 4.0 EVIDENCE**
- 5.0 USE**
- 6.0 CONCLUSIONS**

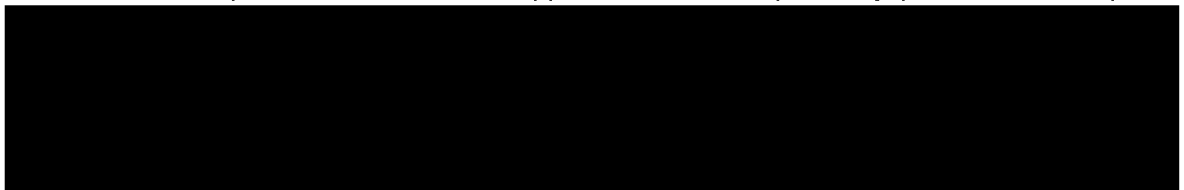
APPENDICES

1. INTRODUCTION

- 1.1 This application seeks confirmation that the proposed siting of a caravan in the rear garden of the house at 5 Forge Lane, Higham Rochester, ME3 7AS, in the position indicated on the accompanying plan for incidental/ancillary residential use would be lawful.
- 1.2 Under section 192 of the Act an application may be made to ascertain whether any proposed use of buildings or other land would be lawful.
- 1.3 Section 192 says, if the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.
- 1.4 This is not an application for planning permission and the Development Plan considerations do not fall to be considered in an application for a Certificate of Lawfulness for an existing use or development. The current application falls to be determined having regard solely to matters of evidential fact and law, with the onus of proof on the applicant, there is no requirement for it to be publicised under the provisions of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Similarly, as the policies of the Development Plan (or the National Planning Policy Framework) are not relevant to the determination of an application submitted under the provisions of Section 192, any concerns regarding potential impact on the character or appearance of the area are not matters that the Council can attach any weight to.
- 1.5 Planning permission can only be required where development takes place. The meaning of development requiring planning permission is provided in section 55 of the Town and Country Planning Act 1990 (the Act) and 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”.
- 1.6 The Courts have held that the relevant test of the evidence on such matters is the balance of probability. This Statement of Evidence will provide justification for concluding that on the balance of probability the structure proposed for siting at the application address is a caravan as defined in the Caravan Sites and Control of Development Act 1960 (as amended), that it is sited within the garden of 5 Forge Lane, Higham, Rochester, and will be used solely for purposes ancillary to its residential use, that its’ siting in the garden does not constitute operational development or a material change of use. As it is not “development” it can be carried out without planning permission.

2 BACKGROUND

- 2.1 The caravan/mobile home proposed in the garden at 5 Forge Lane, is for purely incidental/ancillary residential use for the applicants’ own family use/enjoyment. The family





- 2.2 The caravan/mobile home is to be located within the established curtilage of the single residential planning unit comprising the dwelling and garden of 5 Forge Lane with access to it only possible through the house and garden. It is to be sited in the position shown on the accompanying plans and the photograph below.



- 2.3 It is designed as a caravan and will sit under its own weight on height adjustable legs and feet and has the appropriate structural integrity to allow it to be lifted and moved around the site or off the site as required. This simple placement of the caravan/mobile home which will, at some point in the future be removed, does not amount to a substantial physical attachment to the land.
- 2.5 Plans of the caravan/mobile home also accompany this application together with details of the adjustable feet that are integral to the design and which are each individually adjusted to achieve a level floor.
- 2.6 The photograph below shows a caravan from the same manufacturer at another location showing clearly the feet and ventilation space beneath the structure to illustrate the absence of any significant and permanent attachment to the ground.



3. USE FOR SITING OF A CARAVAN

- 3.1 Not all caravans/mobile homes take the typical form of a static or touring caravan. 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.”

- 3.2 This definition has been modified by Section 13 (1) of the Caravan Sites Act 1968 (“The 1968 Act”), which allows for larger 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.”*

- 3.3 There is no requirement that a caravan must have wheels and no description as to how it should appear and from what materials it should be formed.
- 3.4 Section 13(2) of the 1968 Act (amended October 2006) establishes the following maximum dimensions for larger “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.

3.5 The separate definition of a caravan relies upon the structures' mobility which differentiates it from a building, and it is long-established that the siting of a caravan usually involves a use of land but the possibility of a caravan also being a building cannot be entirely ruled out, however the statutory definition provides a strong indication that the siting of caravans/mobile homes of such size can be uses of land rather than operational development. The structure proposed at 5 Forge Lane meets the definition of a caravan and because of its impermanence and its mobility and lack of significant physical attachment to the land, does not involve operational development.

4. EVIDENCE

4.1 Is it a caravan? - In order for something to be considered a caravan/mobile home, it has to meet three key tests as set out in the Caravan Sites Act (CSA), these are:

(1) Size.

(2) Mobility.

3) Construction.

4.2 **Size** – Section 13(2) of the CSA sets the dimensions for a larger twin unit caravan.

Maximum CSA Requirement		Proposal
Length	20m	6.35m
Width	6.8m	5.43m
Internal Height	3.05m	2.085m (internal) (2.5m (external)

4.3 The proposal is therefore comfortably below the maximum permitted dimensions.

4.4 **Mobility** – Section 13(1) (a) of the CSA 1968 indicates that a caravan is a structure which, “when assembled, [is] 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)” (emphasis added). The photograph below shows a similar but larger, caravan from the same manufacturer enclosed within an adjustable steel cradle and being lifted onto the flat bed of a lorry ready for its transportation, showing all the manufacturers caravans are capable of transportation on a lorry The steel cradle is adjusted to suit the dimensions of all the company's caravans.



- 4.5 Services are linked to the caravan/mobile home, but these services can be disconnected easily and within minutes. The caravan is not fixed to the ground but stands on feet. In the absence of any significant and permanent connection to the ground the structure can be lifted without structural damage. It is constructed with very robust materials and the manufacturer has experience of moving these structures by crane. An illustration of the method of moving the caravans is attached to this application to demonstrate the method by which all the manufacturer's caravans can be moved once fully assembled, (see also above photograph).
- 4.6 In the case of *Carter and another v Secretary of State for the Environment and another* [1994] 2 EGLR 194, the Court of Appeal held that for the caravan to meet the mobility test the whole structure must be capable of being moved by being towed or transported on a single motor vehicle or trailer. The caravan definition is clear that the fact a caravan may not lawfully be moved on a highway when assembled (because of its size or road standard limitations) does not mean it ceases to be a caravan. Similarly, the fact that a site may be constrained, for example by fences or trees, does not mean that the structure ceases to be a caravan. The definition of a caravan requires only that "it is, when assembled, physically capable of being moved by road from one place to another". The Romford appeal case attached at Appendix 1 is clear at paragraph 13 "a lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network, but the mobile home should possess the necessary structural qualities to permit its movement in one piece without structural damage."
- 4.7 The caravan proposed does possess the necessary structural qualities to permit its movement in one piece. The evidence accompanying this application and the common experience and practice of the company demonstrates on the balance of probability, that the structure once fully assembled is mobile and is designed to be transportable. The caravan is mobile and there is in fact a thriving second-hand market for these structures and they are often moved between homes or re-sold if no longer needed. The manufacturer will move the caravans and relocate them to other locations when no longer needed.

- 4.8 It must be capable of being moved, but it does not cease to be a caravan just because it is not moved or because its movement or relocation is challenging, for example, caravan's and park homes in holiday destinations do not cease to be caravans because they remain static. This proposed caravan/mobile home is not intended to be a permanent addition to the land, it can be readily removed once family circumstances change, and it is no longer needed. The caravan/mobile home proposed is mobile and meets the second key test of the CSA.
- 4.9 **Construction** – The structure must be designed for human habitation.
- 4.10 The evidence accompanying the application shows a caravan/mobile home floor plan showing all the facilities one would expect in a caravan designed for human habitation.
- 4.11 The structures are designed in modular form from precision engineered components prefabricated under factory conditions with common dimensions so that the modular structures may stand alone, or they may be combined to form a larger, twin unit caravan.
- 4.12 The caravan proposed at 5 Forge Lane may be delivered in kit form, with its component parts ready for assembly on site for whilst it is common for many mobile homes to be delivered as a complete unit or as two halves that are then joined together on site, case law has established that there is no requirement that the process of creating the caravan must even take place away from site. In *Byrne v SSE and Arun DC QED 1997* concerning a larger twin unit mobile home, it was found 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". In the *West Devon Borough Council appeal case (Ref: APP/Q1153/C/08/2064995)* attached at Appendix 1A the Inspector held that it was only necessary that, in the case of larger mobile homes, the act of joining the two sections together should be the final act of assembly. The same conclusion was reached in connection with the *London Borough of Romford Case (Ref: APP/B5480/C/17/3174314)* attached at Appendix 1.
- 4.13 The accompanying caravan lifting method statement does show how once assembled, the entire range of the manufacturers' caravans are capable of being lifted and moved. The caravan will be fully portable using the lifting cradle shown in the photograph above.
- 4.14 The photographs below illustrate the form of construction and the method of joining the two sections of a caravan together as the final act of assembly on site, either by lifting or by rolling the two halves together outside of the confines of a factory.



First part in place.



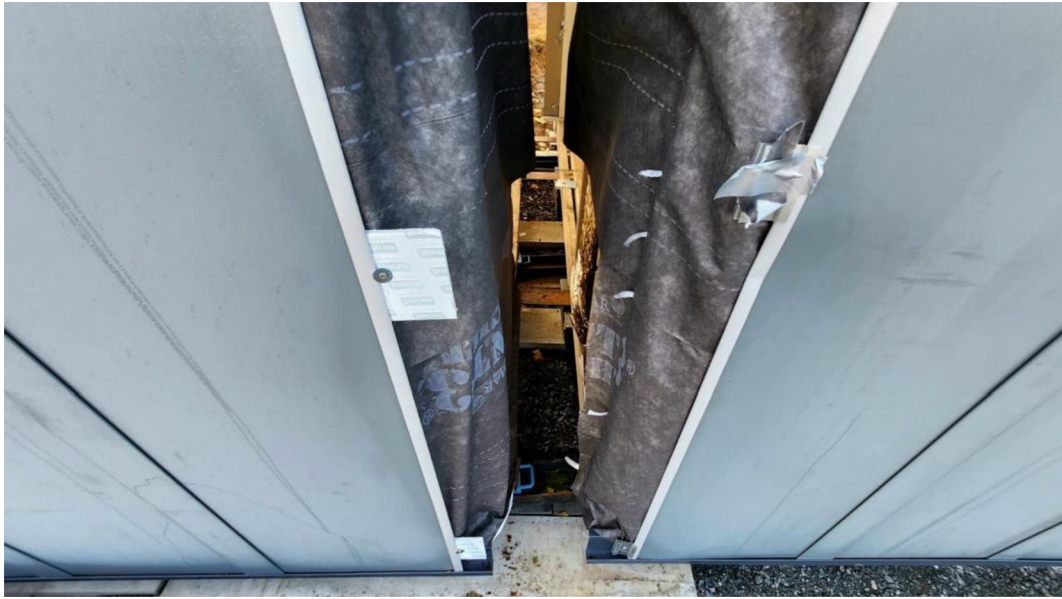
Second part of caravan within steel cradle for manoeuvring before joining



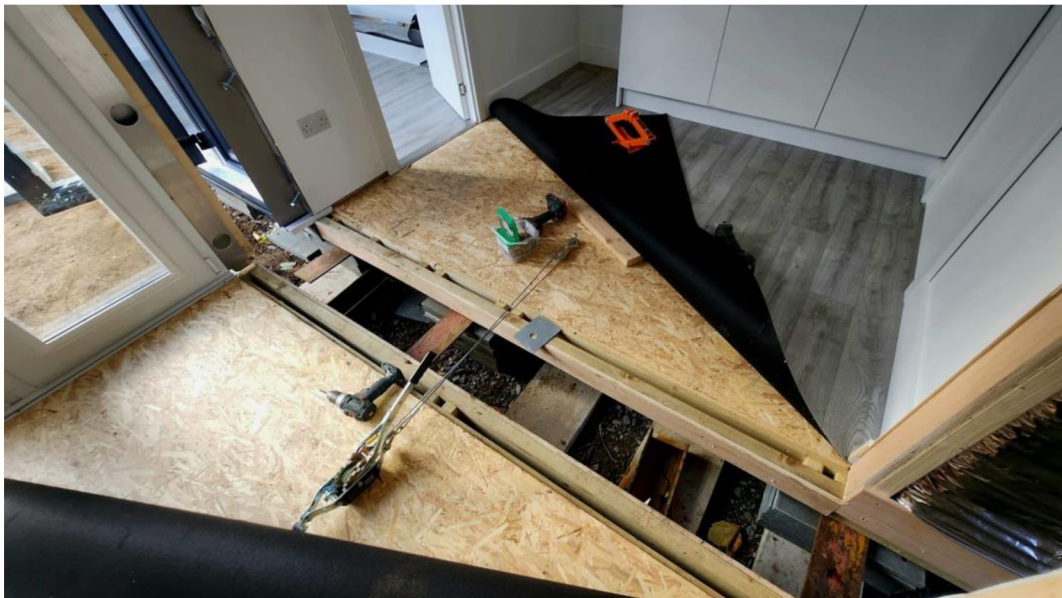
Second half being lifted into place on supporting cradle



Second half in place just before it is rolled together and joined.



Two parts of caravan ready to be joined together.



Note ratchet pulley to pull halves together and line of bolts in vertical plane awaiting tightening.



Bolts connecting two halves with access panel for tightening.

- 4.15 The caravan/mobile home sited at 5 Forge Lane is capable of being lifted whole when fully assembled and moved as shown in the photographs above. It is constructed in a manner which when finished is capable of being moved and thus meets the third key test of the CSA.
- 4.16 The caravan proposed at 5 Forge Lane is a structure that is designed for human occupation, which does not exceed the Caravan Acts specified dimensional limits for caravans and the complete assembled structure is capable of being lifted and transported on the back of a lorry. It is constructed in a manner which when finished is capable of being moved and thus meets the third key test of the CSA.

5. USE

- 5.1 Is it to be used for incidental/ancillary purposes? - A caravan/mobile home which because of its mobility is not operational development may be sited within the curtilage of a dwelling without planning permission if its use is incidental/ancillary to the use of the dwelling. This would apply even if it had all facilities within it that enabled the occupier to live independently. What defines an ancillary use is a matter of fact and degree, however to assist, Uttlesford District Council v Secretary of State for the Environment & White [1991] remains one of the leading cases in respect of the use of an existing building within the curtilage of a dwellinghouse for the provision of ancillary residential accommodation, Mr Lionel Read QC (sitting as a deputy judge of the Queen's Bench Division) concluded that a building within the garden of a property could be used as an integral part of the main residential use, without this representing a breach of planning control (i.e., a material change of use). As he noted in his judgement:

"... the elderly relative to be accommodated would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of the family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling."

- 5.2 Examples of this in connection with caravans include the attached East Hertfordshire appeal case (Ref: APP/J1915/X/11/2159970) where the inspector determined that a fully equipped mobile home occupied by the elderly parents of the applicants was lawful, and in Esher a mobile home to provide ancillary staff accommodation but with all the facilities of an independent home, was also found not to require planning permission (Appeal decision APP/K3605/X/12/2181651). A similar decision was reached by a planning Inspector in Teddington in 2016 (APP/L5810/X/15/3140569). More recently an enforcement appeal decision in Welwyn and Hatfield District confirmed a caravan with all facilities of an independent home sited within the curtilage of a dwelling house and occupied by the nephew of the owners was lawful (Appeal Decision APP/C1950/X/20/3247983) and at Heathfield House, West End Road, Tiptree CO5 0QH (APP/A1530/X/17/3177321) which acknowledges that “typically, a caravan will be equipped with all the facilities required for independent day-to-day living. It does not follow automatically that once occupied there must be a material change of use simply because primary living accommodation is involved. Much depends on how the caravan would actually be used.” In June 2024 an appeal relating to a similar caravan as proposed at 5 Forge Lane and for occupation by the homeowners’ elderly mother, was allowed for an address in Stirling, Scotland thus representing similar circumstances to that proposed at 5 Forge Lane. Paragraph 6 of the Reporter’s decision letter presents a useful summary of the issues (Appendix 1H -Certificate of Lawful Use appeal reference: CLUD-390-2004). All the above decisions are attached at Appendices, 1B, 1C, 1D, 1E, 1F and 1H.
- 5.3 The general approach of the Courts is that it is the actual use of a caravan/mobile home that is the determining issue, rather than its potential to be occupied as a self-contained residential unit for whilst there is no statutory planning definition of ancillary/incidental, there are broadly accepted ‘incidental’ tests as arising from relevant case law.

These are:

- 1) **The relationship between the respective occupants** – in this case there is an immediate family connection between the intended occupiers of the caravan/mobile home and the occupiers of the dwelling. The blended family has found it necessary to provide additional space at the home and particularly a degree of private space for Hamada’s youngest son who does not have his own room, and for Rosa’s parents when visiting their daughter and grandchildren.
- 2) **The relative size of the house, its garden and the caravan** – the proposed caravan/mobile home is modest in scale and significantly smaller than is permitted under the CSA and is smaller than many of the appeal examples cited above. The garden is large enough to accommodate the structure and it will continue to be used as a single-family garden and will not be subdivided.
- 3) **The relative scale of accommodation in the caravan/mobile home and the house** – the accommodation within the proposed caravan/mobile home is the minimum needed to provide for the family’s current needs but still leaves a large garden area.
- 4) **The degree to which the caravan/mobile home is functionally connected to and subordinate to the use of the dwelling house** – the caravan/mobile home will be subordinate to the use of the dwelling and curtilage and will not create a new planning unit. There is absolutely no intention that the caravan will be made available for separate, independent, residential use. Hamada’s youngest son will take all his meals in the home and will simply

sleep in the caravan/mobile home, other family members will use the space less regularly but it will remain occupied by a single extended family who each have access to both the caravan/mobile home and the dwelling, sharing the garden, sharing day-to-day living facilities and interacting with each other and providing care for one another. Reference to the appeal decision at Welwyn Hatfield District (Appendix 1E) acknowledged that the applicant's nephew spent "most of his time in the caravan but remains close to and relies upon the members of the family". The same scenario applies at 5 Forge Lane. There is to be no physical or functional separation of the garden land and there is no intention to make the caravan available as a separate dwelling. The proposal will not result in creation of a new planning unit.

- 5.4 In support of this evidence I attach a Transcript of House of Commons Debate (22 November 2005). This debate, in part, concerned the stationing of caravans belonging to gypsies and travellers within the curtilages of the residential properties that they had purchased. Reference (on page 3) is made to paragraph 29 of former Circular 01/1994 which stated; "Some kinds of activity will not fall within the definition of 'development' in Section 55 of the 1990 Act and will not therefore require planning permission. Any gypsy living in a dwellinghouse will not require planning permission to use a caravan within the curtilage of the dwellinghouse, provided that the purpose is incidental to the enjoyment of the dwellinghouse as such. A caravan within the curtilage of a dwellinghouse may have a number of ancillary uses for which planning permission would not be required. For example, it could be used for additional living accommodation, provided that it remained part of the same planning unit as the dwellinghouse and the unit remained in single family occupation." This principal can be applied equally to the settled population as well as to dwellings occupied by the gypsy community.
- 5.5 The application must be assessed on the basis of the stated ancillary use. Whilst the caravan/mobile home might therefore be seen as being capable of independent occupation, this is not the basis upon which a Certificate is being sought. Provided it is occupied as incidental/ancillary to the occupation of the dwellinghouse in the manner described it should be clear that no material change of use will occur. These issues are addressed in clear terms in the appeal decision at Buckingham Road, Bletchley, Milton Keynes (ref: APP /Y0435 /X/15/3129568 attached at Appendix 1G). In this decision the Inspector noted that whilst the proposed caravan would have contained all the facilities for independent living it would not have been used in that way. There would have been a functional link with the main dwelling. The use of the caravan in the manner described in the application would have been a use comprised part and parcel within the primary dwellinghouse use which was already taking place within the planning unit, as a matter of fact and degree. For this (and other) reasons it was found that, had the caravan been sited and its use instigated at the time of the LDC application, there would not have been a breach of planning control. The siting and use of the caravan for the purpose of providing additional living accommodation as described in the application would have been lawful at the date of application as a matter of fact and degree.

6. CONCLUSION

- 6.1 The proposal falls within the definition of a caravan as defined in the 1960 and 1968 Caravan Sites Acts (as amended) and given its very limited connection to the land and the absence of any foundation, its siting within the curtilage of 5 Forge Lane involves no operational development. The caravan would be sited within the lawful garden grounds of the existing

dwelling and its partial assembly on site is not a factor in determining whether it meets the definition of a caravan because once fully assembled it will remain a movable structure with only its services connected, and it will not be permanently affixed to the ground. When it is no longer needed it will be removed.

- 6.2 It is to be used for purposes that are ancillary to the use of and occupation of the main dwelling. It will use the main dwellings' services, the same postal address, the same utilities and there will be no division of the plot, and most importantly it is to be occupied only by family members. The planning unit will remain as one. There will therefore be no independent use and no new planning unit and so there is no material change of use requiring planning permission involved as it does not bring about a material change of use of the land. The caravan will simply provide additional accommodation for use by one family. This is consistent and indeed part of the primary residential dwelling house use.
- 6.4 For the reasons explained above and the case law and appeal precedents put forward, it is considered the correct application of planning law and judgement of the particular circumstances of this case on the basis of fact and degree, should result in the granting of a Certificate of Lawfulness for siting of the caravan/mobile home generally as described and shown on the submitted plans for purposes ancillary to the occupation of 5 Forge Lane, Rochester.

APPENDICES

- Appendix 1 London Borough of Havering appeal case (Ref: APP/B5480/C/17/3174314)
- Appendix 1A West Devon Borough Council appeal case (Ref: APP/Q1153/C/08/2064995)
- Appendix 1B East Hertfordshire appeal case (Ref: APP/J1915/X/11/2159970)
- Appendix 1C Esher appeal case (Appeal decision APP/K3605/X/12/2181651)
- Appendix 1D Teddington appeal case (Appeal decision APP/L5810/X/15/3140569)
- Appendix 1E Welwyn and Hatfield case (Appeal decision APP/C1950/X/20/3247983)
- Appendix 1F Colchester Borough Council (Appeal decision APP/A1530/X/17/3177321)
- Appendix 1G Milton Keynes Council (Appeal decision APP/Y0435/X/15/3129568)
- Appendix 1H Stirling Council (Appeal decision reference: CLUD-390-2004)

Method Statement for moving fully assembled structure.

Forms of Caravan 'Feet'

Transcript of House of Commons Debate (22 November 2005)