

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20250507
Location	5 Forge Lane Higham Rochester Kent
Proposal:	Application for a Proposed Lawful Development Certificate for the proposed siting of a caravan for ancillary residential use in the rear garden.
Applicant:	Mr H Aqlan and Ms R Hinsley
Site Visit	Desktop Assessment

Plans & Documents

Application form for a Lawful Development Certificate for a Proposed Use or Development;
Drawing no. P01 Proposed front elevation;
Drawing no. P02 Proposed southern side elevation;
Drawing no. P03 Proposed northern side elevation;
Drawing no. P04 Proposed rear elevation;
Drawing no. P05 Proposed layout;
Site location plan;
Existing block plan;
Proposed block plan;
House of Commons Hansard Debate 22 November 2005 Travellers (Middlewich);
Images of caravan support;
Method Statement for lifting/moving Booths caravan/mobile home;
Statement of Evidence May 2025;
Appendix 1 Appeal decision Land at 28 Lodge Lane;
Appendix 1A Appeal decision 7 Burnshall Cottages;
Appendix 1B Appeal decision 4 Waterworks Cottage;
Appendix 1C Appeal decision Sandy Holt;
Appendix 1D Appeal decision 27 Elmfield Avenue;
Appendix 1E Appeal decision Howe Wood Farm;
Appendix 1F Appeal decision Heathfield House;
Appendix 1G Appeal decision 80 Buckingham Road;
Appendix 1H Scottish appeal decision 35 Mayfield Street; and
Caravan assembly and use information.

Procedural issue

Following a request from the case officer (after the receipt of representations that suggested that the caravan would provide semi-permanent/permanent residential accommodation for the applicants' parents), the applicants clarified that the proposed occupiers of the caravan would be their sons and parents.

Property Type

The property comprises of a detached bungalow with front and rear gardens.

Relevant Planning History

Reference	Description	Decision	Decision Date
20250570	Formation of frontage parking space and vehicle crossover.	Pending	
20250079	Erection of single storey rear extension and rear dormer; Conversion of loft space into habitable rooms; Formation of frontage parking space and vehicle crossover. AP 2025/031/REF: Appeal lodged	Refused Pending	10.04.2025
20070419	Erection of single storey rear extension to form dining room/living room, kitchen, utility room and ensuite bathroom/wc.	Permitted	25.06.2007

Representations

As a Lawful Development Certificate (LDC) application, there is no requirement for any consultation or publicity. However, it should be noted that five representations in support of the proposal have been received. These are summarised as follows;

- The annexe will provide residential accommodation for 6-12 month periods for the mother of one of the applicants, who has mobility issues and is a pensioner but lives abroad. She will be able to enjoy family meals and social interactions with her daughter's family but will sleep in the annexe.
- The annex will provide residential accommodation for the father of one of the applicants, who is a pensioner and requires day to day support from his daughter but who lives abroad.
- This proposal aligns with the National Annexe Planning Consultancy's (NAPC) national position that ancillary and modular developments make efficient use of existing residential plots, support flexible living arrangements, and offer a sustainable response to housing and care pressures without necessitating large-scale new developments.
- It is crucial to ensure that the caravan remains ancillary to the main dwelling, thereby preserving the integrity and cohesion of the residential plot.
- The annexe will provide residential accommodation for two sons of one of the applicants when visiting the application property. The current property does not have enough bedrooms to allow this.

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	No
Article 4 Direction	No
Permitted Development Rights Removed/Restricted	Yes*

* Condition 3 of planning permission reference 20070419 restricts the installation of any window, door or other form of opening (including flue extracts) in the northern and southern flank walls of the rear extension that was approved.

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

The applicants are proposing the siting of a caravan for ancillary residential use in the rear garden of the application property. They state that the proposal does not comprise a material change of use of the land or buildings or involve operational development.

They set out that the caravan would utilise the services at the application property, sharing utilities and a postal address. There would be no division of the plot and the caravan would be occupied by immediate family members only, living as part of the family occupying the dwelling. As such, they consider that there would be a functional and close familial relationship between the occupiers of the caravan and the dwelling and there would be a single planning unit.

They also set out that the caravan would be mobile, as it is capable of being moved in its assembled state, it would have no foundation and because any connection to services can be easily disconnected.

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 6.4 metres (length) by 5.48 metres (width). No section plan has been submitted to illustrate the proposed ceiling height but the overall height would be 2.5 metres and the submitted Statement of Evidence states that the internal height would be 2.085 metres. 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 shows that the proposed caravan would not be permanently fixed to the ground, as it would be sited on an existing grassed surface (with no foundation), on adjustable legs and feet. The application details also show that the proposed caravan could be moved using an adjustable steel cradle, a crane and a lorry/trailer.

The caravan would have connections to utilities (shared with the dwelling) but it is noted that these connections would be easily removable.

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 information submitted shows that the proposed caravan would be delivered in kit form, with its component parts being assembled on site. The construction process would involve creating two independent sections which, as the final act of assembly, would be joined together.

The submission includes photographs illustrating the construction method for joining the two sections of the caravan together, either by lifting or rolling the two halves together. Photographs also illustrate the two sections once joined.

As set out above, the proposed caravan could be moved using an adjustable steel cradle, a crane and a lorry/trailer as a single structure.

Therefore, the caravan would meet the construction test.

In light of the above, it can 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(2)(d), it is now pertinent to consider whether the proposed development would be located within the curtilage of the dwellinghouse known as no. 5 Forge Lane 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. 5 Forge Lane is in use as a single family dwellinghouse. The submitted plans show that the proposed caravan would be located in the north eastern corner of the rear garden and photographs from a site visit on 20 March 2025, indicate that the rear garden of the application property is separated from neighbouring properties by boundary treatments. The applicants are the owners of the land and the land is in use as a single residential plot. As such, the proposed development would be located within the curtilage of the dwelling known as no. 5 Forge Lane.

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 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 caravan would be occupied by close family members (the applicants' parents and children). One of the potential occupiers has set out that they would enjoy family meals and social interactions with her daughter's family but would sleep in the annexe. As such, it is considered that there would be a close familial relationship between the occupants of the dwelling and the users/occupiers of the proposed caravan.

The existing dwelling at the application site has a building footprint of some 167 square metres (measured externally) and has three bedrooms, a large kitchen/dining/living room, a bathroom, shower room and a utility room. The application site has an area of 480 square metres and the footprint of the proposed caravan (measured externally) would be 35 square metres. There is an existing outbuilding at the application site with a footprint of some 11.8 square metres, which appears to be used as a shed. Overall, the size of the proposed caravan would not be excessive when compared to the size of the dwelling and its plot.

The proposed caravan would provide a single bedroom, a living/dining/kitchen and a shower room with a total floor area (measured internally) of 32 square metres. The proposed bedroom would not meet the minimum floor area requirement for a double room (11.5 square metres) as it would have an area of 9.4 square metres.

By way of comparison, the government's Technical Housing Standards - Nationally Described Space Standard sets out a minimum floor area of 37 square metres for a one bedroom, one person, single storey residential unit (with a shower room). Therefore, the proposed caravan would be close to an appropriate size for a one person independent residential unit. Furthermore, it would provide all the facilities required for day to day domestic existence. As such, the users/occupiers of the caravan would have very little need to utilise the main dwelling to meet any of their day to day domestic requirements.

However, the applicants have set out that the caravan would not be occupied as a separate residential unit but by immediate family members, living as part of a wider family group, residing at the existing dwelling. Furthermore, they have states that there would be no separation between the caravan and dwelling and they would share utilities and a postal address. Therefore, there would be a functional connection between the proposed caravan and dwelling and the caravan use would be subordinate to the use of the dwelling.

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.

Discussion of the information and appeal cases cited by the applicants

Firstly, it is important to note that the determination of any LDC application relates to the facts and that these facts would be individual to each case. As such, the citing of previous planning decisions/appeals would only be of limited relevance in the determination of this application.

The appeal cases cited by the applicants support their contention that the proposed development is a caravan that does not comprise a material change of use of the land or buildings or involve operational development.

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. 5 Forge Lane, 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 caravan 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: Grant Lawful Development Certificate

Case Officer:	Mrs Kelly Joyce	Team Leader:	Richard Hart
Signed:	<i>K Joyce</i>	Signed:	<i>R Hart</i>
Dated:	24th July 2025	Dated:	24th April 2025