



Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20220913
Location:	Lark Rise Pondfield Lane Shorne Gravesend DA12 3LD
Description:	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.
Applicant:	Mr Christopher South
Site Visit Date:	Desktop

Site and Surroundings

Lark Rise is a large extended 'L' shaped two storey detached dwelling within large grounds, originally dating from the mid to late 1950's, located to the south of the rural settlement of Shorne Ridgeway. It is constructed of part boarded and part rendered walls and a tiled roof. There is a detached treble garage/garden store at the front. There is a swimming pool and enclosure next to the rear elevation of the dwelling.

It is served by a private drive off Pondfield Lane which itself is a private unadopted road.

The dwelling is built on sloping ground that falls away at the rear. Part of the land at the rear is heavily wooded. The site is within the Green Belt and an Area of Outstanding Natural Beauty (AONB).

Relevant Planning History

Planning Applications

Ref No	Description and Site	Decision	Date
19560147	Erection of a dwelling house	Permission	27.08.1956
TH6/72/658	Construction of double garage adjacent to house	Permission	16.11.1972
TH6/73/266	Erection of two storey extension to provide hobbies room, study, master bedroom, dressing room, bathroom and wc	Permission	16.07.1973
19820414	Erection of single storey side extension to form snooker room	Permission	28.07.1982
19850225	Erection of first floor extension over billiard room and part of living room to form bedroom and ensuite bathroom	Permission	22.05.1985
19891018	Outline Application for the erection of detached	Refused	08.02.1990

	bungalow		
19990577	Erection of a conservatory at the rear.	Refused	12.10.1999
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
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
20150235	Application for a non-material amendment to planning permission reference number 20141000 to allow alteration of ground floor external materials from weather boarding to render, and changes in the garage window arrangements including an additional window on the rear elevation.	Permission	10.04.2015
20180416	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Refused	06.06.2018
20180676	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Granted	13.07.2018
20190257	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Refused	17.05.2019
20190598	Application for a Lawful Development Certificate in respect of the proposed swimming pool and enclosure.	Certificate Granted	05.08.2019

Proposal

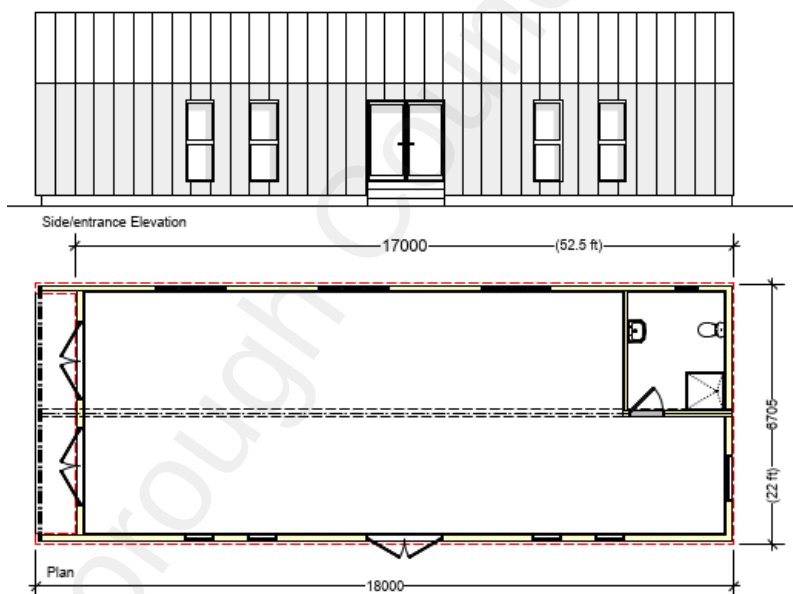
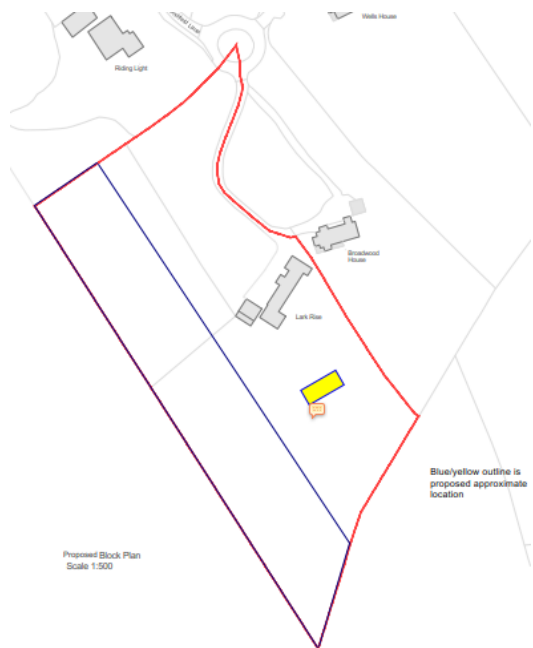
This application is for a Lawful Development Certificate in respect of the proposed stationing of a mobile home in the garden of the property, for use for hobbies and an integral part of the overall use of the house.

Submitted Plans and Documents

Lawful Development Certificate Proposed Use or Development Application Form
Drawing No 762 - L10: Location Plan
Drawing No 14/82/02 Rev A: Existing Block Plan

Details of the Development

The proposed mobile was originally shown in the block plan below as being located some 25m from the nearest point at the rear of the dwelling (stated as approximate) but this has since been revised. The drawings indicate a structure overall of 18m in length, 6.7m in width and sitting on a raised platform and with a pitched roof and with an overall external height of 5m. The plans show a shower room within the mobile but no other details of the floor layout.



There is no separate supporting information other than what is set out in the application form.

In the application form it states:

I am proposing to station a mobile home in the garden of my property above. A location plan is attached with the property edged red.

I understand I do not need planning permission to station a mobile home and would be grateful to receive your confirmation.

The mobile home would be stationed within the curtilage of my house. The mobile home would be a Dune Zinc from Habitat Mobile Homes which would come within the definition of a caravan in terms of its design, mobility, size and construction. The mobile home would be placed on the land and would not be fixed to the ground.

The mobile home would be used for hobbies as an integral part of the overall use of the house. It would share services, facilities and access with the house.

I believe the proposed use would not be a material change of use and would be incidental to the enjoyment of the dwelling house.

Under the grounds for the application and in response to why the existing or last use of the land is considered to be lawful it is stated:

The proposal is a mobile home within the garden of the main dwelling

In respect of supporting documentary evidence, it is stated:

A caravan, be it a touring or static caravan or a large twin-size mobile home, is regarded as an article of movable personal property known as a 'chattel' and there is no public law preventing one being kept in someone's garden.

It is indicated that the existing or last use is Class E (although this is incorrect as it is Use Class C3 and is probably confused with a different Class E in respect of permitted development rights under Article 3 of and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

It is indicated that this is a temporary use wherein it is stated:

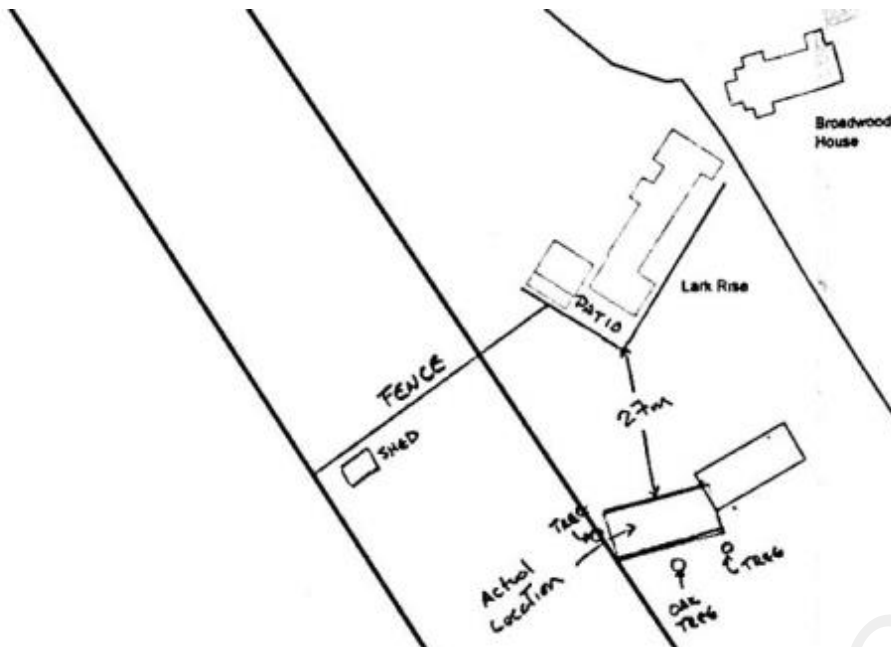
The legal definition of a caravan covers a wider range of structures than conventional touring caravans. A 'caravan' is any structure designed for human habitation that is capable of being transported. The term 'caravan' applies to touring caravans, motorhomes, static caravans and twin-unit mobile homes and park homes.

In respect of why it is considered that a Lawful Development Certificate should be granted for this proposal it is stated:

A caravan within the curtilage of a dwelling house may have a number of ancillary uses for which planning permission would not be required.

Following the original submission and after discussions between the applicant and the planning case officer over the intended siting of the mobile home, following examination of a visual interpretation of the site features as provided by the applicant, the block plan has been revised. It is now shown as being 27m from the edge of a patio at the rear of the dwelling.

This is shown in the extract from the plan below.



The visual interpretation (video) of the site features as provided by the applicant indicates that the siting will necessitate the removal of 4 small (Hawthorn) trees but apparently no mature trees.

Additionally, it has been stated in the visual interpretation that it is not intended to live in the mobile home as the house has six bedrooms, and also it is proposed that there will be steppingstones leading from the house.

The National Planning Practice Guidance (NPPG)

The National Planning Practice Guidance provides guidance on how a lawful development certificate application is determined. (Paragraph 009 Reference ID: 17c-009-20140306).

The NPPG indicates in Paragraph 009 that the planning merits of a lawful development certificate application are not relevant at any stage in the application or appeal process and therefore the planning policy background relating to this site is not set out in this report.

It also says that a Local Planning Authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether, and that a refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.

Consultations, Publicity and Representations

Consultations

Shorne Parish Council

The Parish Council OBJECTS STRONGLY to this application and considers that full planning permission is required.

The existing property is a now a large house due to previous extensions (original floor area approximately 60sqm), in a large curtilage. It is located in the Green Belt and the Area of Outstanding Natural Beauty. No "very special circumstances" have been put forward to justify this application for a large new structure that will be visually intrusive, negatively affect openness and potentially have landscape impact, as well as causing loss of mature trees.

The proposal is for a very substantial building which is 18m by 7m, so with a floor area 126sqm, which greatly exceeds the size of standard mobile buildings that can be delivered as one unit. While

prefabricated panels/subunits might be used in its construction, it appears to be a fixed structure which cannot, due to its size, be moved as single entity. It needs foundations for installation and includes a full bathroom which will need water supply and sewerage, as well as power supplied.

The actual proposed site has not been specified, this needs to be defined and, as ancillary accommodation, should be as close to the house as possible rather than widely separated as indicated.

The building has the appearance of ancillary residential accommodation or a separate dwelling rather than being solely for "hobbies".

A full planning application is needed so that conditions can be attached preventing use as residential accommodation and as a separate dwelling, alternatively strong narrative comments are needed. If the structure is regarded as temporary, then any permission could also possibly be made personal to the applicant.

Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites and has no objection to the proposed development.

The proposed development is for a site within or close to a nationally designated landscape namely Kent Downs AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided.

Dickens Country Protection Society (DCPS)

DCPS object on grounds that it is concerned at the impact a building of this size, in this location, remote from the house is likely to have on the openness of the Green Belt. DCPS is also concerned at the impact the proposed development could have on the North Downs AONB.

There is no information provided on the proposed finishes to the building but from the photographs submitted with the application it could be visually intrusive. There is also no information provided regarding the proposed use and the impact that could have.

No comments received

Publicity and Representations

None undertaken for LDC

However, one individual response has nevertheless been received commenting:

- *It is questionable whether the proposed structure can properly be described as a "mobile home".*
- *It appears that its height may be greater than 3 metres.*
- *The property is within Kent Downs Area of Outstanding Natural Beauty.*
- *It covers an area of ground of slightly over 120 square metres.*

Therefore, it is not permitted development under Schedule 2 Part 1 Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, and planning permission is required.

Officer Analysis and Assessment

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. Regard has been had by the Local Planning Authority to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009).

If interpreted as a building, or operational development, and if deemed to be incidental to the enjoyment of the dwelling, as opposed to an ancillary use, the proposal would fall for consideration under the permitted development provisions prescribed in Article 3 of and Part 1 Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. If so, the development as proposed in this current application would not fall within the scope of permitted development as its height exceeds the limitation of 4m with a dual pitched roof (as set out in Class E.1 (e) (i)), it appears to include a raised platform (and thus not permitted development under Class E.1 (h)) and as the curtilage is within an Area of Outstanding Natural Beauty (AoNB) and the development is more than 20 metres from any wall of the dwellinghouse its ground area would exceed 10 square metres, and therefore would also not be permitted development by reason of Class E.2.

However, the applicant claims that the proposal is a mobile home, and 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. The applicant states that the mobile home would be used for hobbies as an integral part of the overall use of the house, it would share services, facilities and access with the house and the proposed use would not be a material change of use and would be incidental to the enjoyment of the dwelling house.

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 involve 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 a mobile home. 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.

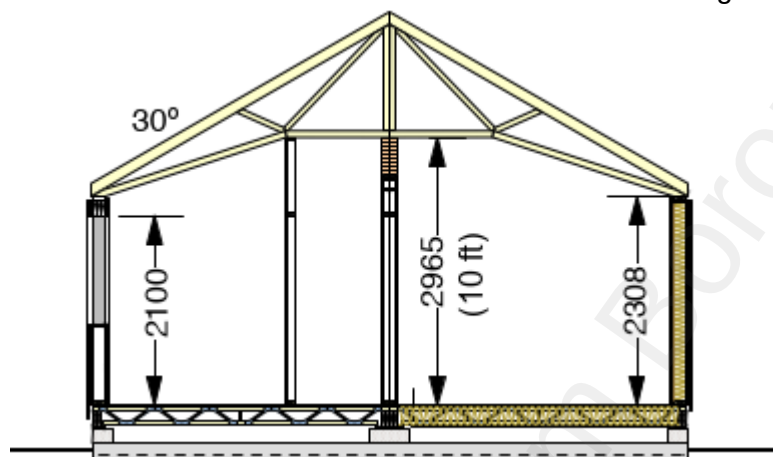
Would the Proposal meet the Definition of a Caravan?

With regard to the above definition, case law (and notably Appeal decision by J G Roberts Planning Inspector 28 June 2002 in the appeal Mr R Brentnall v Erewash Brough Council APP/N1025/C/01/1074589) 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 in this case would have external dimensions of 18 metres length by 6.7 metres width.



The section plan shows the proposed ceiling height to be 2.965m.

As such, the proposal would meet the definition of a caravan in terms of its 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 have no permanent foundations and would be supported by concrete pads (possibly 6 in total and circa 750 by 750) although these appear to be resting on a concrete slab or deck and this is also illustrated in the Habitat Mobile Homes photograph. The land where the mobile is intended is not entirely flat and has some degree of slope which again would require some earthworks, although this is not explained in the submitted details.

The exact nature of the proposed services or their physical connection is also not provided but it is clearly intended to do so. The floor plans do show a shower room and toilet thus suggesting that there will be power, drainage (to/from an existing cesspit in the garden, as explained in the applicant's visual interpretation) and water connections. This has been indicated by the applicant in the visual interpretation of the site (video evidence) subsequently provided.

It is also pertinent to note that the applicant has not stated any intention to move the proposed development around or to remove it from the site after it has initially been put in place and as such, it appears to be

intended to be a permanent feature of the application site. The addition of the slab/concrete deck would certainly weigh in favour of this.

Therefore, it is possible that the proposed development may have a high degree of permanence, be incapable of being moved and/or may be intended to be a permanent feature and as such, it would not 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.

No details have been provided by the applicant as to the construction of the mobile home.

There is some detail regarding the physical construction process on the Habitat Mobile Home website. The company is indicated as being essentially a small specialist timber frame building operation.

It is stated:

*Because we assemble and finish the mobile homes onsite our company becomes invested in each **build** project.*

It is also indicated that finished external walls are **1ft thick**.

There are no details specifically in relation to the specification of the intended Habitat Mobile Homes - Dune Zinc style mobile home but on the company websites specific page it provides the following illustrations below on timber frame and groundworks and foundations and indicating that they generally aim to finish the homes to building regulation standards and also noting -

- *We usually recommend a steel mesh reinforced concrete slab foundation min depth 200mm*
- *Our Mobile Homes sit on a single row of breeze blocks laid flat around the perimeter of the structure*



Timber Frame



Groundworks and Foundations

Due to the limited and generalised detail provided in relation to the construction process, it is difficult to fully determine whether the proposed development would be formed of two sections which are not buildings in their own right or whether the proposed development would be capable of being transported as a single structure, once it is assembled. Therefore, it is quite possible that the proposed development would not meet the construction test.

Overall, it is considered that due to the lack of information that has been provided by the applicant and the

build/construction information that is currently available on the company website of the proposed mobile home it leads to the conclusion that the mobile home would not meet the construction test and would not fall within the definition of a caravan but would be operational development

Incidental Tests

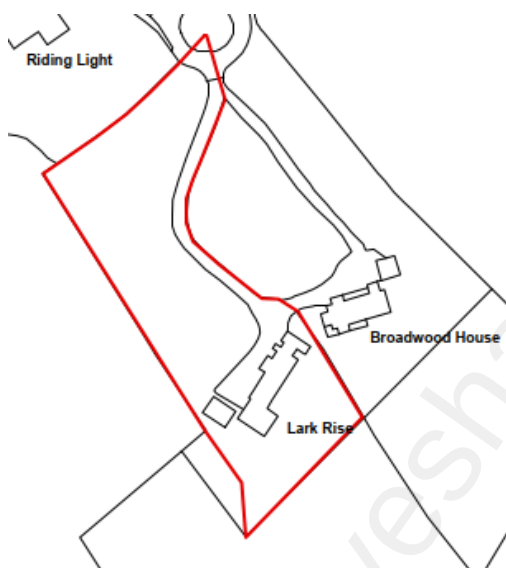
Referring back to Section 55(2)(d), it is now pertinent to consider whether the proposed development would be located within the curtilage of the dwellinghouse known as Lark Rise Pondfield Lane and if its purpose would be incidental to the enjoyment of the dwellinghouse as such.

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 red line boundary plan accompanying the application illustrates what is the residential curtilage of the dwelling. The plot within which the dwelling is located is large, but it appears to have been a single land registry title, be in single ownership and to have been used as a garden for a substantial period of time, certainly since 1999 (based on a planning application record submitted at the time). There is no current physical separation across the rear of the site. There is also land edged in blue in the submitted site plan that appears to also be used as part of the dwelling curtilage, albeit not indicated as such, and on which there is an existing garage structure used as an outbuilding.



What is slightly confusing is that the plan that accompanied a lawful development certificate application in 2019 (ref 20190598) in relation to a swimming pool and enclosure as being an incidental building under Class E of the GPDO did not include the woodland area at the rear of the formal rear garden as being part of the residential curtilage (see plan opposite) and with a rear garden depth of 30m from the most rearward part of the dwelling.

Overall, it is considered that the evidence leads to the conclusion that the land in question forms part of the curtilage of the dwelling known as Lark Rise and the proposed mobile home will be located within the dwelling curtilage and just before the start of the wooded area.

There is no division or fencing between the rear garden and the wooded area. There is a fence on the west side of the side elevation of the dwelling in order to separate the front and rear

gardens which would be expected.

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 2016) 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.

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

The applicant has indicated in the application form and the subsequent visual interpretation of the site that the proposed development would be used by himself and his family as a hobbies room including games, a bar area, indoor golf etc. as an integral part of the overall use of the house.

Whilst those sorts of uses would fall within the definition of an incidental use the provision of a shower room and toilet is essentially associated with primary living accommodation and would be more associated with an ancillary residential use and not an incidental use.

There is no statement submitted with the application that assists in a full understanding of the use of the building/mobile home, but it is conceivable that if it were to be located on the site then other ancillary uses (living and sleeping accommodation) could also similarly be located within it.

Overall, it is considered that currently on the balance of probability, that there is a sufficiently close familial relationship between the respective occupants of the dwelling and the users of the proposed development but there are some doubts as to whether the use is an incidental use.

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

The existing dwelling at the application site has a building footprint of circa 200 square metres (measured externally), excluding any outbuildings such as the swimming pool or triple garage.

The plot (as shown by the submitted red line plan) is some 8,023 square metres in area (0.8 hectares) and the proposed development would have a building footprint of some 120.6 square metres.

Therefore, whilst the application site can easily accommodate the proposed development, the relative size of the structure/mobile home would be excessive when compared to the footprint of the existing house. Its footprint would be the equivalent of 60% of the dwelling footprint.

An incidental structure would usually be subordinate in size to the main building.

It is acknowledged that there are two large structures in close proximity to the dwelling footprint including a triple garage/garden store of 81 square metres and a swimming pool enclosure of 54 square metres.

Notwithstanding the above comments, the courts have held that, whilst the excessive size of a proposed outbuilding is a relevant factor in determining whether it can be considered as being for a purpose incidental to a dwelling, it cannot be the deciding factor. Rather the courts have ruled that the overriding factor in determining whether the use of a proposed building can properly be regarded as being incidental, is whether it occurs together with something else but nevertheless remains at all times subordinate to it. Therefore, in this case the correct approach is to have regard to the proposed use and to the nature and scale of that use in the context of whether it would be for a purpose incidental to the enjoyment of the

dwellinghouse at Lark Rise.

(3) The relative scale of the accommodation contained within the dwelling and the proposed development, and (4) The degree to which the proposed development is functionally connected to and subordinate to the use of the dwelling.

The applicant has not provided details of the layout of the existing dwelling with this current application although there is evidence available of the ground and first floor layout of the existing dwelling from previous planning history.

The current dwelling, as extended, has six bedrooms, four with ensuite bathrooms and a separate bathroom at first floor and a ground floor comprising kitchen, dining/family room, utility room, wc, study, two living rooms and a playroom.

Apart from the triple garage at the front and the swimming pool enclosure at the rear there is one other outbuilding in the wider curtilage being a single standard type garage building that is used for garden equipment and storage.

Whilst it is acknowledged that a games room per se could be reasonably regarded as being 'incidental' to the use of a dwelling as indicated above the inclusion of a shower room/wc within the overall floor space of the mobile home suggests perhaps an ancillary use of the proposed development. The floor area of the proposed structure as a whole would be approx. 120 square metres and whilst it is not stated as being used as such for living accommodation as ancillary or an annexe, nevertheless such a floor area would easily be capable of accommodating all the facilities required for a day-to-day domestic existence. In the absence of an explanation as to why a development of this size and scale is required for the uses proposed, it is reasonable to assess the layout in terms of the potential for residential accommodation in some form. 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-person, single storey residential unit (with a shower room).

Overall, taking the four factors into consideration, it is concluded that the proposed development would not be used wholly for purposes incidental to the dwelling at the application site.

Discussion of Case Law and Appeal Cases

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

It is noted that no case law or precedent, in support of the development, has been provided by the applicant and it is not therefore intended to recite relevant or appropriate case law.

Nevertheless, the most recent local planning and appeal decision of some relevance relates to an application for a Lawful Development Certificate in respect of the proposed stationing of a log cabin (caravan) 20 metres by 6.8 metres in the residential garden for purposes incidental to the main dwelling at Sheridan Walnut Hill Road Gravesend (GBC ref 20180695) which was refused on grounds that as a matter of fact and degree and taking into account relevant planning law and judicial authority, the proposed development would not be likely to meet the definition of a caravan, nor would it be likely to be used for purposes incidental to the use of the dwelling, in August 2018.

A subsequent planning appeal was dismissed on 29 January 2020 (ref APP/K2230/X/19/3222526), the Inspector determining that the development failed to meet the construction and mobility tests and was operational development concluding:

In view of my conclusion that the log cabin would not be a 'caravan' but would be a 'building', it is development that requires planning permission, either express, or through the GPDO as a Class E outbuilding.

Conclusion

This application for a Lawful Development Certificate (LDC) has been carefully assessed having regard to the facts of the case and the interpretation of any relevant planning law or judicial authority.

In such cases the burden of proof lies with the applicant who must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.

It is considered that the applicant has not provided information with sufficient clarity or precision, that would allow a definitive determination as to whether the proposal would be an operational development or a use of the land or if it would be used for purposes incidental to the enjoyment of the existing dwellinghouse.

On the contrary and in the opinion of the Local Planning Authority and on the basis of the evidence that has been submitted the proposed development would not be likely to meet the definition of a caravan, nor would it be likely to be used for purposes wholly incidental to the use of the dwelling.

It is considered that the proposed development may have a high degree of permanence, be incapable of being moved and/or may be intended to be a permanent feature and as such, it would not meet the mobility test.

It is considered that due to the lack of information that has been provided by the applicant and the build/construction information that is currently available on the company website of the proposed mobile home it leads to the conclusion that the mobile home would not meet the construction test and would not fall within the definition of a caravan but would be operational development.

In addition, in taking into account relevant considerations from planning case law in relation to whether the proposed development would be an incidental use it is concluded that it would not be used wholly for purposes incidental to the dwelling at the application site. Regard in particular has been taken of the size of the proposed mobile home including in relation to the footprint of the existing dwelling, its inclusion of a shower room/wc, and its potential for use as ancillary accommodation.

It is noted that similar conclusions are reached in the consultation response from Shorne Parish Council.

The proposed mobile home would not be a 'caravan' or constitute a use of the land falling within the same use class as the remainder of the planning unit but would be a 'building', it is development that requires planning permission, either express, or through the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (the 'GPDO') as a Class E outbuilding.

As a Class E (of the GPDO) outbuilding the development would not fall within the scope of permitted development for a number of reasons.

Therefore, for these reasons it is concluded overall, on the evidence that is available, that the proposal would be likely to amount to development requiring planning permission.

Recommendation:

Refuse Certificate of Lawfulness – Proposed Development

The applicant has not provided information with sufficient clarity or precision, that would allow a definitive determination as to whether the proposal would be an operational development or a use of the land or if it would be used wholly for purposes incidental to the enjoyment of the existing dwellinghouse.

It is considered, as a matter of fact and degree and taking into account relevant planning law and judicial authority, that the proposed development would not be likely to meet the definition of a caravan, failing to meet the construction or mobility tests as established through case law.

Nor would it be likely to be used wholly for purposes incidental to the use of the dwelling having regard to the size of the proposed mobile home including in relation to the footprint of the existing dwelling, its inclusion of a shower room/wc, and its potential for use as ancillary accommodation.

For these reasons it is concluded, on the evidence that is available, that the proposal would be likely to amount to development requiring planning permission.

INFORMATIVES:-

1 DRAWINGS AND DOCUMENTS

For the avoidance of doubt the decision to refuse this application was taken in relation to the following plans and documents:

Lawful Development Certificate Proposed Use or Development Application Form

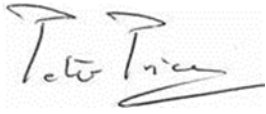
Drawing No 762 - L10: Location Plan

Drawing No 14/82/02 Rev A: Existing Block Plan

Drawing No 14/82/02 Rev A: Proposed Block Plan, as amended 18.10.2022

Unnumbered drawing (other than shown as Rev A): Setting out plan, Section and Elevations

Photograph of Mobile (Habitat Mobile Homes - Dune Zinc)

Case Officer:	Mr Peter Price	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	27 th October 2022	Dated:	1 st November 2022