

CIDER ORCHARD, GRITTENHAM, WILTSHIRE, SN15 4JU

**SITING OF MOBILE CARAVAN STRUCTURE TO PROVIDE INCIDENTAL
ANNEXE ACCOMMODATION**

**LAWFUL DEVELOPMENT CERTIFICATE APPLICATION
SUPPORTING STATEMENT**

Planning Portal Ref: PP-14647024

Introduction

This lawful development certificate application relates to the proposed siting of a mobile caravan structure within the garden of an existing domestic dwelling known as Cider Orchard, located at Grittenham to the west of Swindon. The structure would be a single storey unit containing a play room/music room and home office. It is intended that the mobile structure would be used only by the occupiers of Windfalls for purposes incidental to that existing dwelling.

The application seeks confirmation that the proposed mobile structure falls within the definition of a 'caravan' as set out in the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. It would be a timber framed structure with its external walls clad in weatherboard and its roof finished in tiles. The structure would be constructed as a single-unit caravan, sitting on a structural steel chassis resting under its own weight on adjustable concrete pads. The steel chassis would include lifting eyes/hooks to enable the structure to be lifted by crane.

This statement should be read in conjunction with the drawings and documents submitted with the associated lawful development certificate application, including:

- Location Plan at 1:1250 (drg. 97267/01);
- Proposed Block Plan at 1:500 (drg. 97267/02);
- Proposed Floor Plan, Roof Plan & Section at 1:100 (drg. 97267/03);
- Proposed Elevations at 1:100 (drg. 97267/04);
- Structural Lifting Calculations;
- Crane Specification;
- Caravan Approval Portfolio.

As it is contended that the proposed mobile structure falls within the definition of a caravan, it would not be operational development as defined in the Town & Country Planning Act

1990, and therefore would not be subject to planning control or the permitted development restrictions set out in Class E of Part 1 of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 2015, as amended.

It is a well established principle that when deciding whether or not a structure is deemed to be a caravan, including single or twin-unit caravans, the commonly applied 'size', 'construction' and 'mobility' tests should be considered. Each of these is considered further in this statement below, with reference to appeal decisions and case law where relevant. Copies of all appeal decision letters referred to are also included for reference in the documents submitted with this lawful development certificate application. Consideration is also given to whether there would be any material change in the use of the land where the proposed mobile structure would be sited.

Legislative Definition of a Caravan

Subsection 29(1) of the Caravan Sites & Control of Development Act 1960 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.

Subsections 13(1) and (2) of the Caravan Sites Act 1968 additionally define twin-unit caravans as follows (although it is stressed that a single-unit caravan is proposed here) and also give maximum dimensions which a structure must not exceed to be considered a 'caravan':

- (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 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 & 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 & Control of Development Act 1960 (revised October 2006), 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 draw bar): 65'7" (20.00 metres);**

(b) width: 22'3" (6.80 metres);

(c) overall height of the living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (3.048 metres).

Prior to 1998 there was some debate as to whether mobile homes should or should not be considered as buildings with regard to planning legislation. The issue was settled following the judgement handed down in the case of *Measor v Secretary of State for the Environment, Transport and the Regions* (1998), where the Judge stated:

In my judgement, it would conflict with the purpose of the Act and common sense to treat mobile caravans as 'buildings' as of right. While I would be wary of holding that, as a matter of law, a 'structure' that satisfied the definition of, for example, a mobile home under section 13(1) of the 1968 Act could never be a building for the purpose of the [Town & Country Planning] Act 1990, it seems to me that by reference to the definitions in the [Caravan Sites & Control of Development] Act 1960 and the 1968 [Caravan Sites] Act it is clear that in the present case the caravans lacked that degree of permanence and attachment to constitute buildings.

Despite the Courts being careful not to state that a caravan or mobile home could never be a 'building', generally they are not. The *Measor* principle has been restated and reaffirmed in a number of cases since 1998. In 2002, for instance, the Judge in the case of *Massingham v Secretary of State for Local Government and the Regions* stated:

The judgement in the Measor case restated the approach to the definition of a building for the purposes of development control which had been well settled in previous cases including Barvis Ltd v Secretary of State. In acknowledging that it would be wrong to say that a mobile home could never be a building, in this case I am in no doubt that the mobile home fails the tests of permanence and attachment [to be considered a building] established by the courts.

Size Test

Drawing no. 97267/03 submitted with this lawful development certificate application shows that the proposed mobile structure would have an overall length of 10.5m, an overall width of 4.0m and a maximum internal height from floor to highest ceiling level of no more than 3.0m. The proposal would clearly be well below the maximum dimensions allowed for a caravan as set out in subsection 13(2) of the Caravan Sites Act 1968 and it therefore meets the requirements of the size test.

Construction Test

The proposed mobile structure would be constructed from a timber frame with walls clad in timber weatherboard and the roof finished in tiles. The components of the timber frame

would be prepared, manufactured and cut to size in a factory elsewhere prior to being transported to the site, along with the timbers for the cladding, internal partitions and the roof tiles, to then be assembled on site. So there would be some prefabrication of the main components off site, but also assembly on site.

Subsection 13(1) of the Caravan Sites Act 1968 defines the requirements to satisfy the construction test as simply that the structure is composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices. However that is in the case of twin-unit caravans, whereas what is proposed here is a single-unit caravan to which the requirements of subsection 13(1) do not directly apply. The definition of a caravan as set out in subsection 29(1) of the Caravan Sites & Control of Development Act 1960 and subsection 13(2) of the Caravan Sites Act 1968 does not contain any requirement for the structure to be pre-assembled or brought to the site intact.

These principles have been confirmed in relevant appeal decisions, including appeal ref. APP/J2210/X/22/3298471 where the Inspector observed:

It is proposed to assemble the structure on site using pre-manufactured components...

The definition of a caravan contains no requirement for pre-assembly or for it being brought to site intact. Moreover, the number of components involved in assembling the structure has only a limited bearing on whether it is capable of being moved subsequently. The requirement set out in s13(1)(a) of the 1968 Act to be no more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices apply in respect of twin-unit caravans. However, the above requirements do not extend to single unit caravans...

Consequently, the structure does not need to meet the statutory requirements in respect of the number of sections applicable to a twin-unit caravan (para. 8).

Although appeal ref. APP/N1025/C/01/1074589 related to a twin-unit caravan, the principles of how a structure can be erected to accord with the legislative definition of a caravan apply equally to single-unit caravans. In allowing this appeal the Inspector commented:

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 the 2 separate sections must take place away from the site on which they are joined together (para. 6).

In allowing appeal ref. APP/B5480/C/17/3174314 the Inspector noted:

The appellant has explained that the components were manufactured in kit form in a factory. The kit included finished panels and boards and timber floor cassettes that

were chemically treated, boarded and insulated. These were all stacked into packs and wrapped with tarpaulins ready for transportation. They were then taken to [the appeal property] on a 25ft flatbed wagon, off-loaded at the front using the vehicle's crane and moved manually into the back garden (para. 9).

The Council's evidence is not in conflict with the appellant's explanation of what took place. However, the Council appear not to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in paragraph 8 above, was not satisfied (para. 12).

In the case under consideration here, assembly on site would be fitting the pre-fabricated components together effectively as a large kit, erected on a structural steel chassis to allow it to be moved. What is not proposed is the type of more complex construction operations associated with a permanent building which require, for instance, laying of foundations, brickwork or other 'wet' on-site construction activities.

The manufacturing/construction process described in this statement therefore meets the requirements of the construction test.

Mobility Test

Subsection 13(1)(b) of the Caravan Sites Act 1968 states that a caravan is a structure which, when assembled, is physically capable of being moved by road from one place to another. However it also states that such a structure shall not be treated as not being a caravan by reason only that it cannot lawfully be so moved on a highway when assembled.

There is no requirement in the legislation for the mobile structure to move on its own wheels; it is merely sufficient that the unit can be picked up intact or, in the case of a twin unit mobile home, as a whole and put on a lorry by crane or hoist. How difficult it is for that lorry to then reach the road, or the legality of actually transporting the load along the road, is irrelevant to the consideration of the mobility of a structure classified as a caravan under the Act.

Again, these principles are established through appeal decisions and case law. For instance in considering appeal ref. APP/N1025/C/01/1074589 the Inspector commented:

To fall within this definition [subsection 13(1)(b)] the structure must be capable of being moved by road from one place to another in its assembled state. It may be moved by trailer, but is not excluded from the definition merely because it would be unlawful to move it in such a manner on a highway. The fact that the private drive to [the appeal property] is too narrow to allow the passage of the Park Home in its assembled state along it is not the point. It seems to me that it is the structure that must possess the necessary qualities, not the means of access (para. 7).

Furthermore, in considering appeal ref. APP/J1915/X/11/2159970 the Inspector concluded:

The test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle...

A lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most 'static' caravans on any lawful caravan site (para. 5).

The proposal under consideration here would sit on a structural steel chassis with timber cross members, designed to support the weight of the mobile caravan structure. The type of chassis structure proposed is illustrated in the photographs below. The chassis would be fitted with lifting eyes designed to allow for the attachment of lifting straps/rig so that the whole mobile structure can be lifted by its chassis base using a crane and placed onto a flatbed lorry for transportation.

On site the mobile structure and its chassis base would rest under its own weight on adjustable concrete pads, again illustrated in the photographs below. The concrete pads would sit on the ground, so there would be no permanent foundations and no excavation works beyond stripping back grass and any unwanted vegetation to provide a level area.



Illustration of proposed structural chassis construction including timber cross members.



Illustration of proposed structural chassis construction including concrete support pads.



Illustration of proposed structural chassis construction including support pads and lifting eyes.

Example structural calculations are included with this lawful development certificate application which were prepared in respect of a significantly larger mobile structure (19.8m x 6m) than what is proposed here, but which still relate to a structure erected using the same assembly method as proposed here. The specification of the lifting crane is also included. These documents demonstrate that the proposed mobile structure could be lifted intact as one unit. By way of further illustration, a photograph of a similar but larger structure in the process of being lifted intact is included below.



The proposed mobile structure would be connected to services but, as is the case with any other static caravan connected to services, this does not preclude the proposal being classified as a caravan under the Act. In considering appeal ref. APP/L5810/X/15/3140569 the Inspector commented:

I note that the proposed unit would rest on concrete pad stones placed on the ground. As such, the unit's degree of physical attachment to the ground and the effect on mobility would be minimal or non-existent. Similarly, any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved (para. 17).

So as a structure with no permanent attachment to the ground, and capable of being lifted and moved by road, regardless of the difficulty of reaching the road or the legality of moving the load on the road, the proposal meets the requirements of the mobility test.

Material Change of Use

From the above it is clear that the proposed mobile structure meets the commonly accepted tests for being classified as a caravan under the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. It is therefore not operational development. It must still, however, be considered whether there is any material change in the use of the land on which the mobile structure is to be sited.

As described in the introduction to this statement above, the proposal would be used and occupied as additional domestic accommodation by the family who occupy the main dwelling at Cider Orchard, specifically for incidental uses to that dwelling. An illustrative internal floor plan layout is included on drawing no. 97267/03. No separate self-contained accommodation is proposed that would be independent to the main house. The use proposed is wholly incidental to the main house and would sit within the property's existing garden, having no separate address, post box, utility meters, services, parking, garden area/curtilage or access.

The proposal would be located on land that is clearly part of the domestic garden adjacent to the main house and which would continue to be used as such. This area was included as part of the garden in the original consent for the dwelling (application ref's. 20/01061/FUL & PL/2021/11724). No separate planning unit would be created. Anyone using the proposal would remain living as part of the family occupying Cider Orchard.

The proposed use of the mobile structure would therefore remain wholly incidental to the main house. Issues surrounding the incidental or ancillary nature of domestic annexes and outbuildings have been explored through appeal decisions and case law. For example in *Uttlesford District Council v SoS & White (1991)* it was held that although an annexe contained all the facilities for day-to-day domestic existence and was capable of being used as a separate dwelling house, this did not mean that it had been so used. Factors of significance were the lack of separate utility meters, postal address and telephone line, as well as the lack of any separate curtilage or access arrangements.

Therefore the proposed mobile structure would be used for purposes incidental to the domestic residential use of the main house and would be located on land which is part of the domestic garden to the main house. There would be no material change in the use of the land or creation of a separate planning unit around where the proposed mobile caravan structure would be sited.

Conclusions

The proposed mobile structure is a single unit caravan constructed from prepared components to be transported to and assembled on site. It would not sit on permanent foundations but would be supported on a structural steel chassis incorporating lifting eyes and resting on concrete pads, meaning that it would be moveable within the site and by

road. The proposed structure would also be no larger than the maximum dimensions for a caravan permitted under the Caravan Sites Act 1968.

The proposed mobile structure would be used for purposes incidental to the domestic residential occupation of the main house to which it would relate, and would be sited within the existing residential garden of the main house.

Therefore the proposal accords with the commonly applied 'size', 'construction' and 'mobility' tests, and additionally would not result in a material change of use of land.

The proposal can be classified as a 'caravan' under the definitions of the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968. Under the principles established through *Measor v Secretary of State for the Environment* (1998) the proposal is not a building for the purposes of the Town & Country Planning Act 1990 as it would lack the degree of permanence and attachment necessary to be considered as such. There would therefore be no operational development requiring planning permission.

The applicant has been successful in securing positive lawful development certificates for numerous similar proposed mobile structures elsewhere. A portfolio of such cases is enclosed with the documents accompanying the application under consideration here. This demonstrates that other local planning authorities agree that this type of construction meets the requirements of the Caravan Sites & Control of Development Act 1960, as amended by the Caravan Sites Act 1968.