

<b>Received Date:</b>	9 January 2025
<b>Expires:</b>	6 March 2025
<b>Application Number:</b>	250038
<b>Site:</b>	2 Red Tiles, Dunt Lane, Hurst, Wokingham, RG10 0TE
<b>Application:</b>	Application for a certificate of existing lawful development for the stationing of a twin unit mobile home (caravan) to provide additional residential accommodation.

## 1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
181372	Application for a certificate of lawfulness for the proposed siting of a caravan for human habitation.	Approve	12/06/2018	N/A

## 2. Site Description

The application site consists of a two storey semi-detached dwelling located on Dunt Lane, Hurst. A stable building and a detached garage are located to the rear end of the garden which is generous in both depth and width.

## 3. Land/ Property Designations

- There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015).
- The site is located within an Amber Risk Zone for Great Crested Newts.

## 4. Legislation

Town and Country Planning Act 1990 (as amended)

- s.55 Provides that '*development*' includes the carrying out of building operations on land, and '*building operations*' includes structural alterations or additions to buildings.
- s.57 Planning permission is needed for all development of land.
- s.187a Enforcement for breach of conditions
- s.192 Applications for Certificates of Lawfulness of proposed use or development.
- s.191 Defines operations as 'lawful' if:
  - (a) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
  - (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.

## 5. The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

## 6. Relevant details of the proposal:

Proposed stationing of a twin unit mobile home (caravan) to provide additional residential accommodation.

## 7. Information/Evidence submitted

By the applicant: <ul style="list-style-type: none"><li>• Lawful Development Certificate Statement</li><li>• Certificate of Conformity from Norwegian Log</li></ul>
By the Council: <ul style="list-style-type: none"><li>• RFS/2024/089804 Planning Contravention Notice (dated 22<sup>nd</sup> November 2024)</li><li>• Council Tax history</li></ul>
By third parties: <ul style="list-style-type: none"><li>• None</li></ul>

## 8. Assessment against legislation:

Permission is required for the carrying out of any development on land.

Section 55 of the Act stipulates “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.

For the purposes of the Act “building operations” includes demolition of buildings, rebuilding, structural alterations or additions to buildings and other operations normally undertaken by a person carrying on business as a builder (s55(1A) of the Act).

Section 55(2)(d) of the Act states that “the use of any building or other land within the curtilage of a dwellinghouse for the purpose incidental to the enjoyment of the dwelling house as such shall not be taken to involve development”.

Section 336 of the Act defines a building as any structure or erection and any part of a building as so defined but does not include plant or machinery comprised in a building. Case law has identified three primary factors that should be considered in determining what constitutes a building:

- 1) Size
- 2) Permanence
- 3) Physical attachment to the ground

Each case needs to be considered on its own merits when determining whether or not a structure is a building and the relevant conclusion will be reached following consideration of the facts of the specific circumstances of the case.

The current application is for the proposed siting of a mobile home within the existing residential curtilage of the main dwelling. Following the legislation as set out above it

is necessary to determine whether the proposal is “development” for the purposes of the Act and whether or not the proposed mobile home would result in a change of use of the site. As with any Certificate of Lawfulness application, the burden of proof is on the applicant and the Local Planning Authority is required to test the evidence on the balance of probability.

This application has been assessed against the following parameters:

- Does the proposal comprise operational development?
- Does the proposal give rise to material change of use of the concerned land?
- Does the proposal fall within the statutory definition of caravan?

### **Operational Development:**

It is possible for a caravan/ mobile home to be considered as a building and fall within the definition of s336 of the Act. It is therefore necessary to consider if the proposed mobile home for this application will fall within the definition of a building, following consideration of the three factors outlined above because this will determine whether planning permission is required for the proposal or if the certificate could be granted in line with the application. This will also determine if the proposal would amount to operational development.

- **Size:** The applicant has provided a manufacturer specification document for the twin unit mobile home as well as scaled elevational and floor plans. The home on site has an external length of approximately 13.8 metres, a width of 6.8 metres and an internal height of 2.9 metres. The mobile home was transported to the site and brought onto site via the existing vehicular access, then assembled in two parts on site with the joining of these two parts as the final act of assembly.

These measurements fall within the legal limits of twin-unit caravan dimensions as provided by the Caravan Sites and Control of Development Act 1968 (as amended).

- **Permanence:** The erection of a building or structure normally denotes the making of a physical change of some permanence. In *Skerrits of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (No.2)* [2000] 2 P.L.R. 102 the Court of Appeal upheld an inspector’s decision that a marquee erected on a hotel lawn each year for a period of eight months was, due to its dimensions, its permanent character and the secure nature of its anchorage, to be regarded as a building for planning purposes. The annual removal of the marquee did not deprive it of the quality of permanence. Also, permanence was thought to not necessarily mean to continue indefinitely.

With respect to the current application, the applicant has stated that the proposed mobile home will remain on site for no specific amount of time. The supporting information claims that the mobile home could be moved in one part, following construction; however, it does not appear to be the intention to move the mobile home therefore it would, once placed on the land, remain in order to offer the accommodation required by the applicant. The proposed mobile home therefore appears to have an element of permanence because following the case of *Skerrits* “permanence” does not necessarily mean indefinitely. However,

due its size and lack of physical connection to the ground, the mobile home would not amount to a building or structure and would not constitute operational development for the purposes of s.55 of the Act.

- **Mobility:** *Tyler v SoS & Woodspring BC 13/09/1990 and Carter v SoS & Carrick DC 14/03/1994* states that the transportability test is only satisfied if the whole of a structure and not its separated component parts is capable of being moved away on a vehicle.

The manufacturer specification document provided with this application confirms that once completed, the mobile home will be capable of being moved as one unit. The method for transportation by road is to lift the mobile home unit onto a flatbed lorry using a crane.

The court case *Pugsley v SoS & North Devon DC 09/06/1996* (hereinafter referred to as *Pugsley*) confirmed that the fact that the narrowness of tracks and lanes at a site would prevent a structure being moved, was not impediment to the transportability criterion being satisfied. However, in *Byrne v SoS & Arun DC 27/02/1997* it was considered that in applying the transportability test, one could have regard to the fact that although a structure could be capable of being placed on a vehicle, it could be cracked or damaged in the process of being moved from where it was.

The mobile home is sited in the middle of the site's garden and primarily accessible by the site's existing vehicular access. The home is specifically designed to be transported by flatbed lorry and therefore there are no anticipated damages or difficulties associated with moving it from the site.

Overall, it is considered that the mobile home passes the mobility test.

### **Definition of caravan:**

Section 13 of the Caravan Sites Act 1968 (as amended) establishes the maximum size of twin-unit caravans and how they should be composed, constructed and designed. As such it is considered that the applicant has satisfactorily demonstrated that the mobile home accords with the legal definitions of caravans in terms of proposed dimensions and functions.

Turning to the use of the mobile home, the applicant's statement outlines that the home is currently being used by the daughter and son-in-law of the occupants of the main dwellinghouse (2 Red Tiles). They use the mobile home as their main bedroom for sleeping, along with the bathroom, and the rest of the accommodation for recreation and leisure whilst still living as part of the one family household unit.

The statement also highlighted that the occupants of the main dwellinghouse have significant health problems and are increasingly in need of care and support from their daughter and son in law. It is anticipated the need for assistance will increase over time. It is probable that in the future the twin unit mobile home will be needed to provide level access bedroom and bathroom accommodation for the occupants of the main dwellinghouse, at which time the daughter and son-in-law will reside in the main house, again continuing to live as one family household.

The statement also asserts the following:

1. The twin mobile home unit has not and will not be physically separated from the garden of the main dwelling.
2. The garden is and will continue to be shared by all occupants.
3. No separate services are provided or proposed, there is one household electricity and water bill.
4. There has not and will not be a separate postal address for the twin unit mobile home.
5. The twin unit mobile home provides bedroom, bathroom and living room accommodation with kitchenette facilities for the preparation of hot drinks, and snacks.
6. The family will continue to regularly share main meals together in the house, mostly on a daily basis.
7. The family will continue to socialise with each other in the main house and all family members will have access to both the house and the twin unit mobile home.
8. There is and will be no washing machine or laundry facilities other than in the main house, these are and will continue to be used by all family members.

It is the applicant's view that, instead of being viewed as incidental or ancillary to the main dwellinghouse, the mobile home provides primary accommodation that is part and parcel of the use of the main dwelling house, thereby not representing a material change of use.

The *Burdle* assessment of a planning unit and the relevant three tests are of particular importance to this assessment. The three tests are as follows:

1. Where it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities were incidental or ancillary, the whole unit of occupation should be considered as the planning unit.
2. Where there are a variety of activities none of which are incidental or ancillary to another and which are not confined within separate and physically distinct areas of land, again the whole unit of occupation should normally be the planning unit. (This is usually said to be a composite use.)
3. Where within a single unit of occupation there are two or more physically separate and distinct areas occupied for substantially different and unrelated purposes, each area (together with its incidental and ancillary activities) should be a separate planning unit.

Also of importance is the leading *Whitehead* [1991] judgment, in which the Secretary of State viewed that the use of an existing building in a residential garden as a bedroom was not incidental to the use of the dwelling, but an integral part of the main use of the planning unit.

The description of the mobile home's use, based on the applicant's statement, does not lend itself towards an incidental use in that the facilities proposed within are not subordinate to the main dwellinghouse, but rather forms an extension of the main dwellinghouse's facilities (with the only exception being laundry) and is integral to the prevailing residential use.

As a result of the health issues associated with the occupants of the main dwellinghouse, the use of the mobile home will be of primary importance to all of the residents, equal to that of the main dwellinghouse and clearly within the same planning unit/use. It is not the case that the mobile home would be self-contained, rather it provides primary living accommodation additional to that within the main dwellinghouse.

As part of previous enforcement investigations into the site, a Planning Contravention Notice (PCN) was issued on the site to understand the functional relationship between the main dwellinghouse and mobile home. Based on the answers within the PCN, the relevant enforcement case was closed with no breach of planning control witnessed. The answers to this PCN align with the applicant's statement for this application and corroborates the conclusions made above.

Similarly, enquiries were made by the Case Officer into the Council Tax history for the site. It was confirmed that since the occupation of the mobile home on 19<sup>th</sup> December 2024, payments for the site have been made as a single household.

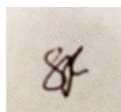
## 9. Conclusion:

Overall, the mobile home within the site edged red falls within the definition and size restrictions for a twin unit caravan and as there is no physical connection to the ground it does not amount to operational development.

Furthermore, based on the balance of probability and no evidence to the contrary, the use of the mobile home on site is considered part and parcel of the use of the main dwelling house and within the same planning unit, thereby not representing a material change of use of the land.

A draft certificate has been prepared, and it is recommended that the application for a Lawful Development Certificate be **approved**.

DRAFT APPROVED



Development Management Team Leader

Date: 13.2.25