

Received Date	17 October 2025
Expires:	12 December 2025
Application Number:	252490
Site:	Tyburn House, Backsideans, Wargrave, Wokingham, RG10 8JP
Application:	Application for a certificate of lawfulness for the proposed siting of a mobile home/garden lodge for incidental use to the main dwelling.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
220035	Full application for the erection of a new two storey three-bedroom detached dwelling with a balcony and 4 no. rooflights with further detached garage, amenity space, parking area, access, and associated works.	06/06/2022	C/A	None

2. Site Description

Two storey detached property.

3. Land/ Property Designations

- The site is located within the Wargrave Conservation Area.
- The site is situated within the Modest Development Location of Wargrave.
- The site is not subject to any wildlife or habitat designations relevant to this application.

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.

Caravan Sites and Control of Development Act 1960

s.29 Defines 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;

First Schedule (1) States that a site license shall not be required for the use of land as a caravan site if the use is incidental to the enjoyment as such of a dwellinghouse within the curtilage of which the land is situated.

Caravan Sites and Control of Development Act 1968 (as amended)

s.13 (1) Defines twin unit caravans as:

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),

s.13 (2) Provides the maximum dimensions of a caravan as:

(a) length (exclusive of any drawbar): 10m

(b) width: 3m

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.3m

6. Relevant details of the proposal:

Application for a certificate of lawfulness for the proposed siting of a mobile home/garden lodge for use incidental to the main dwelling. The mobile home would be sited in the front garden of the residential site.

7. Assessment against legislation:

The application needs to be assessed against planning legislation to determine whether the proposed mobile home would amount to operational development or would it constitute a material change of use. 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.

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 proposal 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 or not 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:

With regards to size, plans have been submitted, providing details of this nature. The dimensions are listed below:

Height (measured internally from the floor at the lowest level to the ceiling at the highest level) – 2.9 metres
Length – 6.3 metres
Width – 3.1 metres

This size falls within the legal limits of caravan dimensions as provided by the Caravan Sites and Control of Development Act 1968.

Permanence:

Erection of a building or structure normally denotes the making of a physical change of some permanence. In *Skerritts 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.

With regard to the current application, no specific timeframe has been provided for how long the structure will remain on site. Although the supporting information indicates that the mobile home could be moved, there is no evidence of any immediate intention to do so. This suggests an element of permanence with it being noted that case law (*Skerritts of Nottingham Ltd v Secretary of State [2000]*) confirms that “permanence” does not necessarily mean indefinite occupation. Notwithstanding, given its size and the absence of any physical foundations or fixed attachment to the ground, the mobile home does not meet the definition of a building or structure.

Physical Attachment to the Ground:

The proposal is for the stationing of a mobile home within the curtilage of Tyburn House, incidental to the main residential usage. The proposed lodge will be placed on an EasyPAD plinth foundation system and will not be fixed down but rather rest on these foundations under its own weight. It would likely be connected to water and sewage and to the electricity supply. However, the mobile home could be disconnected and moved.

Conclusion: From the above discussions, relating to matters of size, permanence and physical attachment to the ground, it is concluded that the proposed siting of a mobile home is for a ‘use’ of land rather than for an operational development.

Material Change of Use:

Section 55(2) (d) sets out operations and uses of land which shall not be taken for the purposes of the Act to involve development of the land. One such use is the use of any building or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse. In order to consider this exclusion, it is necessary to establish the planning unit and its primary use.

In this case, the recent Planning Permission (ref: 220035) establishes the extent of the residential curtilage by virtue of the permission granted on 06/06/2022. This is also supported by the councils internal mapping system. The site has been used as part of an established C3 residential dwellinghouse and the red line plan provided with the current application matches with the established residential curtilage of the main dwelling. The proposed location of the mobile home would be within the residential curtilage of the existing main dwellinghouse.

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

The caravan, or mobile home, as required by Section 55(d) of the 1990 Act, has to be for a purpose incidental to the enjoyment of the dwellinghouse. There is no definition in planning legislation of the term incidental, however, numerous planning appeals and case law have taken the dictionary definition of incidental that defines incidental as a

minor or subordinate nature which is not as important as the main 'thing' to which it is being put/compared to. As such the proposed structure should therefore be a minor or subordinate structure to the main dwelling which is not as important as the main dwellinghouse.

An assessment must be made as to whether the proposed use of the mobile home unit is for purposes "incidental" to the dwellinghouse. If not, then this would result in a material change of use of the land which would require planning permission.

Tyburn House is a two-storey detached property and is occupied by the applicant. The proposed garden lodge will be for the use of the applicant who will use it as additional recreation space and for occasional overnight use.

The mobile unit would not be physically separated from the amenity space of the main dwellinghouse and there would be no separate postal address and no separate utility bills/meters. The mobile home will have a small kitchenette; however, all meals will be shared with the main property.

On the basis of the information provided, it is considered that the use of the mobile home would be incidental. If the mobile home was occupied independently (even by family members) then this would constitute a material change of use requiring planning permission. Enforcement action could be taken if used in this way.

Conclusion:

Based on the information submitted, the proposed mobile home would fall within the definition and size restrictions for a caravan and as there is no proposed physical connection to the ground and it has the capability of mobility, it would not amount to operational development for which planning permission is required. Furthermore, it is considered that the use of the mobile home would remain 'incidental' to the residential use of the main dwelling on the site and will not amount to material change of use.

Given all the above, it is recommended that the application for a Lawful Development Certificate be approved.

DRAFT APPROVED



Development Management Team Leader

Date: 28/11/25