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| <b>Received Date:</b>      | 20 September 2024                                                                         |
| <b>Expires:</b>            | 15 November 2024                                                                          |
| <b>Application Number:</b> | 242409                                                                                    |
| <b>Site:</b>               | 218 Loddon Bridge Road, Woodley, Wokingham, RG5 4BS                                       |
| <b>Application:</b>        | Application for a certificate of lawfulness for the proposed stationing of a mobile home. |

## 1. Relevant Planning History

| Application Number | Proposal                                                                                                                                                                                           | Decision Date | Decision | Relevant Conditions |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|---------------------|
| F/2013/0236        | Proposed erection of part two storey part single storey rear extension, single storey side extension and single storey front extension, following demolition and removal of existing conservatory. | 22/04/2013    | C/A      | None                |
| 04586              | Garage and greenhouse                                                                                                                                                                              | 10/06/1976    | C/A      | None                |
| 39/54              | Three detached houses                                                                                                                                                                              | 08/02/1954    | C/A      | None                |

## 2. Site Description

The application site comprises a detached two storey dwellinghouse within the settlement of Woodley.

## 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 not subject to any wildlife or habitat designations.

## 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.

### 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): 20m

(b) width: 6.8m

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05m

**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:**

Application for a certificate of lawfulness for the propose siting of a mobile home for use incidental to the main dwelling at the site. The applicant has advised that the mobile home would function as a hybrid garden annexe to provide additional living accommodation for a family member who requires support with a variety of care needs.

**7. Assessment against legislation:**

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

Relevant case law including *R (Hall Hunter Partnership) v FSS & Waverley BC 2007* 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 / mobility

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 subject to this application will fall within the definition of a building, following consideration of the identified three primary factors, because this will determine whether or not the proposal constitutes operational development (a building) requiring planning permission.

**Size:** Plans have been submitted in support of the application, providing details including the dimensions of the mobile home. The dimensions are listed below:

Ridge height – 3.37m

Width – 5.4m

Length – 11.44m

Internal height (floor to ceiling) – 2.25m

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

**Permanence:** The 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. Also, permanence was thought to not necessarily mean to continue indefinitely.

With regards to the current application, the applicant has demonstrated that the intended function of the mobile home is to provide care for a family member and that it can be removed from the land when it is no longer required for this purpose. Following further discussion with the applicant, it has been clarified in writing that while the mobile home would serve a long-term purpose, it would ultimately remain readily able to be removed from the site when it is no longer required.

The proposed mobile home therefore appears to have an element of permanence, following the case of *Skerritts* as “permanence” does not necessarily mean indefinitely. However, there is scope for the mobile home to be removed from the land when it is surplus to the requirements of the applicant and it would not be connected to the ground. Sufficient information has been provided by the applicant within this application which satisfies this point. The mobile home would therefore not amount to a building or structure and would not constitute operational development for the purposes of s.55 of the Act.

**Physical attachment to the ground:** The applicant has provided sufficient information regarding the mobility of the mobile home pre and post-assembly. The mobile home would not be fixed into the ground, sitting on a skid, and would therefore not be physically attached to the ground.

The mobile home would be connected to the existing water, sewage and electricity services serving the main dwelling. The mobile home could be disconnected from these services prior to its removal from the site.

From the above discussion, it is concluded that this application for the proposed siting of a mobile home is for a ‘use’ of land rather than 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 planning history for the site (see summary above) clearly establishes the residential use of the site and the extent of the residential curtilage associated with the main residential dwellinghouse. The part of the site where the mobile home would be sited 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 existing main dwellinghouse.

The proposed location of the mobile home would be within the residential curtilage of the existing main dwellinghouse and as such would not amount to a material change of use of the concerned land.

### Definition of a Caravan

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 accords with the legal definitions of caravans in terms of proposed dimensions and functions. To summarise:

(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; **COMPLIES, the mobile home would be in the form of two prefabricated parts that would be assembled on site and would be connected by bolts**

(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) **COMPLIES, the mobile home could be transported by road by lifting the mobile home unit onto a flatbed lorry using a crane**

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

(a) length (exclusive of any drawbar): 20m

(b) width: 6.8m

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05m; **COMPLIES with size requirements**

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 item to which it is being put/compared to. As such the proposed structure should 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.

The site comprises a detached family sized dwellinghouse. The applicant has stated that the intended function of the mobile home is to provide additional living accommodation for a family member, for the purposes of their eldercare.

The applicant, within the submitted supporting documents, presents the following to demonstrate the mobile home would have an incidental use:

1. The mobile home unit will not be physically separated from the rest of the garden of the main dwelling
2. The garden will be shared by all occupants
3. No separate services are proposed, the mobile home will share utilities with the main dwelling
4. There would be no separate postal address
6. The intended occupant would dine and spend leisure time within the main dwelling

On the basis of the information provided, it is considered that the proposed use of the mobile home would be incidental to the use of the main dwellinghouse as the intended occupants would live together with the occupants of the main dwelling rather than forming a separate household. 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.

#### **8. 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 proposed use of the mobile home would remain 'incidental' to the residential use of the main dwelling on the site and will not amount to a material change of use.

It is therefore recommended that the application for a Lawful Development Certificate be **approved**.

DRAFT APPROVED

A handwritten signature in purple ink, appearing to be 'Age', is written over the 'DRAFT APPROVED' text.

Development Management Team Leader

Date: 31/10/24