

Received Date:	27 September 2024
Expires:	28 February 2025
Application Number:	242456
Site:	Bluebell Farm, Commonfield Lane, Barkham, Wokingham, RG40 4PR
Application:	Application for a certificate of existing lawful development for the stationing of 1no. caravan and 1no. mobile home for use as additional residential accommodation within the curtilage of the main dwelling.

1. Relevant Planning History

Application No.	Description	Decision & Date
F/1995/63171	Proposed demolition of existing dwelling and erection of replacement 3no.bedroom dwelling	Refused 05/03/1996
F/1997/65373	Proposed single storey side and rear extensions to dwelling	Approved 07/05/1997
F/1997/66278	Proposed erection of replacement dwelling	Approved 21/11/1997
F/1998/67969	Proposed erection of dwelling – amendment to F/1997/66278	Approved 24/08/1998
F/2000/2015	Proposed erection of detached double garage and installation of velux windows in roof of dwelling (Retrospective)	Approved 04/09/2000
152107	Application for a certificate of existing lawfulness for the use of existing chalet or mobile home as separate residence to the main dwelling.	Refused 08/01/2016 Appeal Allowed 20/01/2017
222373	Application for a certificate of existing lawful development for change of use of land to a caravan site.	Refused 06/10/2022
223783	Full application for the proposed erection of 1no. replacement dwelling and car port, following demolition of existing dwelling.	Approved 10/03/2023
231330	Full application for the proposed change of use of land for stationing no. 14 static mobile home caravans for permanent residential use following demolition of existing dwellinghouse.	Refused 16/08/2023
232420	Application for submission of details to comply with the following conditions of planning consent 223783 dated 10/03/2023. Condition 3 relates to materials, 6 to electric vehicle charging, 7 to cycle parking and 9 to tree protection.	Approved 16/11/2023
240788	Full application for change of use of the land for stationing of 9no. mobile homes for permanent residential use for people over the age of 55 years	Refused 28/05/2024

2. Site Description

The application site is a large residential plot located on Commonfield Lane, Barkham. The site is primarily comprised of the main dwellinghouse that is located within the centre of the site, accessed via a long winding access road from the North. To the east of the dwelling is a three-bay stable building and several caravans sited on an area of hardstanding. These caravans are on site for storage purposes only and are not occupied, this use is unauthorised.

To the rear of the dwelling is a large open garden area. To its immediate east is the touring caravan subject of this application, whereas to the west is the other caravan (mobile home) also subject of this application.

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 Green and Amber Risk Zones 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 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:

Stationing of 1no. caravan and 1no. mobile home for use as additional residential accommodation within the curtilage of the main dwelling.

7. Information/Evidence submitted

By the applicant: • 222373 Officer Report • Answers to RFS/2022/087794 Planning Contravention Notice
By the Council: • Council Tax history • RFS/2022/087794 Planning Contravention Notice • 11th February 2025 Case Officer Site Visit Photos
By third parties: • None

8. Representations

Finchampstead Parish Council:

The Committee RESOLVED to OBJECT to this planning application for the following reasons:

1. This is an additional dwelling which raises concerns that usage would not be ancillary to the main dwelling.
2. Development in the countryside, contrary to FNDP Policies ADH1 and ADH2. The resolution was correctly proposed and seconded (unanimous).

9. 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 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 stationing of 2no. caravans 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 the caravans would result in a material 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.

For the purposes of assessment, the mobile home to the west of the application site will be referred to as Caravan A, with the touring caravan located to the east being referred to as Caravan B.

- **Size:** Caravan A is a single unit mobile home and is approximately 12.15 metres long, 4 metres wide and has an internal height of 2.9 metres. The home is sited on top of several support pads. Gas, electricity and water connections are to the rear.

Caravan B is a touring caravan with a length of 7 metres, a width of 2.5 metres and an internal height of approximately 2.5 metres. The caravan is sited on top of wheels and has a tow bar on the front.

These measurements fall within the legal limits of 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 *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 respect to the current application, the applicant has stated that the caravans 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 to offer the accommodation required by the applicant. The proposed caravans therefore appear to have an element of permanence because following the case of *Skerrits* “permanence” does not necessarily mean indefinitely. However, due to their size and lack of physical connection to the ground, the caravans 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 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.

Caravan A is sited to the west of the site’s garden, with ample space available on site to both pick up and remove the mobile home from its support pads and onto a flatbed lorry. With regards to Caravan B, as it is a tourer with a tow bar and is sited on wheels, its ease of removal from site is not questioned due to its very nature.

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 caravans and how they should be composed, constructed and designed. As such it is considered that the applicant has satisfactorily demonstrated that the caravans accord with the legal definitions of caravans in terms of proposed dimensions and functions.

Turning to the use of the caravans and the site as a whole, the applicant lives within the main dwellinghouse and is widowed. Her daughter, son-in-law and three children live within Caravan A. Caravan B is occupied by the son-in-law’s parents/ grandparents of the three children within Caravan A.

The applicant's statement, and the information provided within the RFS/2022/087794 Planning Contravention Notice responses, assert the following:

- Facilities of the main dwelling are shared with the occupiers of the mobile home on a daily basis. Caravan B does not have washing facilities so relies on the main dwelling.
- Meals are shared and prepared between the main dwellinghouse and caravans on a regular basis.
- The dwelling and caravans all share the same parking area.
- The garden is shared amongst all occupiers.
- There are no separate postal addresses for the caravans.
- All occupants live as one family across both mobile homes and the main dwelling. The grandparents regularly cooperate in looking after the children living within Caravan A, with the children regularly staying overnight within the main dwellinghouse.

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 use of the caravans, 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 for Caravan B) and is integral to the prevailing residential use.

The description of the activities that occur on the site leads to the conclusions that the grandparents, parents and children are living as a single household (i.e. a single planning unit). External amenity space is shared and immediately available for both the dwelling and caravans, with the responsibility of looking after the children shared across all five adults on the site.

All occupants of the caravans have daily access to the dwelling, share the same parking area/access and overall, regularly operate as a single family unit. It is not the case that the caravans would be self-contained, rather they provide primary living

accommodation additional to that within the main dwellinghouse. The Planning Contravention Notice issued by the Council as part of the RFS/2022/087794 investigations also corroborates the evidence within the applicant's statement for this certificate. Furthermore, the Case Officer's visit to the site on 11th February 2025 gathered no evidence to the contrary.

On another note, the Council's Council Tax team did inform the Case Officer that payments for the site are limited to the occupier of the main house, with no evidence of payments for any of the occupiers of the caravans. Despite this, the lack of Council tax records is not the sole determining factor in assessing this application, especially in light of the evidence already reviewed.

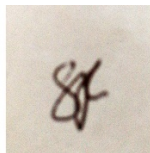
10. Conclusion:

Overall, the caravans within the site edged red fall within the definition and size restrictions for a caravan and as there are no physical connections to the ground they do not amount to operational development.

Furthermore, based on the balance of probability and no evidence to the contrary, the use of the caravans 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

A small, square, light-colored stamp or piece of paper with a handwritten signature in dark ink. The signature appears to be 'SF' or similar initials.

Development Management Team Leader

Date: 19.2.25