Received Date:	15 January 2025
Expires:	12 March 2025
Application Number:	250064
Site:	80 Millbank Crescent, Woodley, Wokingham, RG5 4ER
Application:	Application for a certificate of lawfulness for the proposed siting of a mobile home in the rear garden for use ancillary to the main dwelling.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
052186	Erection of part two storey and part single storey side & rear extension to dwelling.	22/07/2005	Approved	None
052704	Proposed two storey side extension to dwelling and single storey rear extension.	29/04/2005	Refused	None
020389	Proposed single storey front porch extension to dwelling.	29/07/2002	Approved	None
PD/38/72	Lounge extension.	20/01/2972	Approved	None
99/62	Amended siting various plots – semi-detached house	12/07/1962	Approved	None
165/61	Semi-detached house.	07/09/1961	Approved	None
100/61	171 houses and 177 garages).	01/05/1961	Approved	None
217/60B	333 houses and bungalow.	11/01/1961	Approved	None
378/48	Land for gravel workings.	10/01/1950	Approved	None

2. Site Description

The application site relates to a two storey, semi-detached property located in an established residential area. The surrounding area is characterised by semi-detached properties that are similar in design and appearance.

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.
- The site is located within the major development location of Woodley.

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.55 (2)(d) States that the use of any building or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such shall not be taken for the purposes of this Act to involve development of the land.

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.

s.336 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.

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:

This application seeks a certificate of lawfulness for the proposed siting of a mobile home for use incidental to the main dwelling at the site. According to the supporting planning statement, the primary purpose of the mobile home is to provide the applicant, who has a family of six, with additional accessible living, bedroom, and bathroom accommodations. The intention is for the applicant to live at her daughter's property, allowing the family to participate in daily activities such as sharing meals, socialising, and using common utilities, while ensuring the mobile home remains incidental to the main dwelling.

The supporting statement confirms that there will be no separate address, post box, utility meters, services, parking, access and curtilage/ garden area for the caravan.

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 laws have identified three primary factors that should be considered in determining what constitutes a building. These are:

- Size
- Permanence
- 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 Town and Country Planning 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 – 2.99 metres (floor to ceiling height)
  Length – 6.5 metres
  Width – 6 metres

  This size falls within the legal limits of a twin-unit caravan dimensions as provided by the Caravan Sites and Control of Development Act 1968 (amended).

- **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. Also, permanence was thought to not necessarily mean to continue indefinitely.

  With regards to the current application, no specific amount of time has been stated regarding the length of time the structure will be stationed. The supporting information claims that the mobile home will be moved when no longer required, however, it does not appear to be the intention to move the mobile home in the near future. 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.

- **Physical attachment to the ground:**
  The proposal is for the stationing of a mobile home within the curtilage ancillary to the main residential use of the site, and as per the supporting statement. A follow-up email from the agent on 19/02/2025 confirmed that the mobile home will feature a structurally raised timber base, designed, manufactured, and assembled to sit on level ground.

From the above discussion, it is concluded that the proposed siting of a mobile home is for a 'use' of land rather than for an operational development, since there would be no physical connection to the land and the mobile home could be moved, and as such would be lawful.

Material Change of use:

Section 55(2) (d) of the TCPA 1990 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 1961 Planning Permission (165/61) establishes the extent of the residential curtilage by virtue of the permission granted on 07/09/1961. This is also supported by the councils historic 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 and as such would not amount to material change of use of the concerned land.

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. 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.

Lastly 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 as such. 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.

Therefore 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 main dwellinghouse, 80 Millbank Crescent, is a two-storey property, and its primary use will remain as a residential dwellinghouse even after the mobile home is sited in the rear garden. The mobile home is intended to provide additional living accommodation for the applicant, specifically to facilitate her living arrangements at her daughter's property.

It is mentioned in the supporting document that the mobile unit will not be physically separated from the amenity space of the main dwellinghouse and there would be no separate postal address. The occupant of the mobile home will share recreational facilities, and it can only be accessed by passing through the main house. It is described that the occupant will have regular meals with the extended family in the main dwellinghouse. There will not be any separate address, no separate services are proposed and no separate side access to the mobile unit would be available.

It is acknowledged that the facilities provided within the mobile home, as indicated in the updated floor plans received on 06/03/2025, include a one-bedroom, bathroom, and kitchen/living/dining area. The key consideration in assessing this application is the proposed use of the mobile home, which, based on the submitted details, is intended to be ancillary to the main residential use of the property. As such, the use of the mobile home must remain subordinate to the main dwelling and not function as an independent residential unit.

Notwithstanding the above, if the mobile home is not used in association with the dwelling, as described in the supporting statement, and the functional link is severed, then it would not benefit from the LDC.

8. Conclusion:

Based on the information submitted, it is considered that, on the balance of probability, 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, it would not amount to operational development. Furthermore, it is considered that the use of the mobile home would remain 'incidental' to the residential use of the main two storey house on the site and will not amount to material change of use of the concerned land.

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

DRAFT APPROVED *MC*

Development Management Team Leader

Date: 11.03.2025