



<b>Project Name:</b>	Tyburn House, Backsideans, Wargrave, RG10 8JP	<b>Project Ref:</b>	STHW
<b>Client:</b>	Mr Alex Schatunowski	<b>Date:</b>	Sep '25

### 1.0 EXISTING SITE, LOCATION AND ACCESS

Tyburn House is located centrally within the village of Wargrave, Berkshire. The property lies at the end of a private road at the northern end of Backsideans, a narrow lane in the centre of the village. The site is not under any landscape designation but is within the Wargrave Conservation Area. There are no listed buildings on the site.

An aerial photo of the site and context is provided below for reference.



Tyburn House

Chiltern Manor

The Shealing

### 2.0 INTRODUCTION

This application is for a Certificate of Lawfulness for a proposed use or development under section 192 of the Town and Country Planning Act 1990 (as amended) to station a mobile home within the curtilage of a dwelling.

The meaning of development requiring planning permission is provided in section 55 of the Town and Country Planning Act 1990 (the Act) and comprises of two main elements;

- 1) Operational Development being *"the carrying out of building, engineering, mining or other operation on, on, over or under land"*
- 2) *"The making of any material change of use of any buildings or other land"*

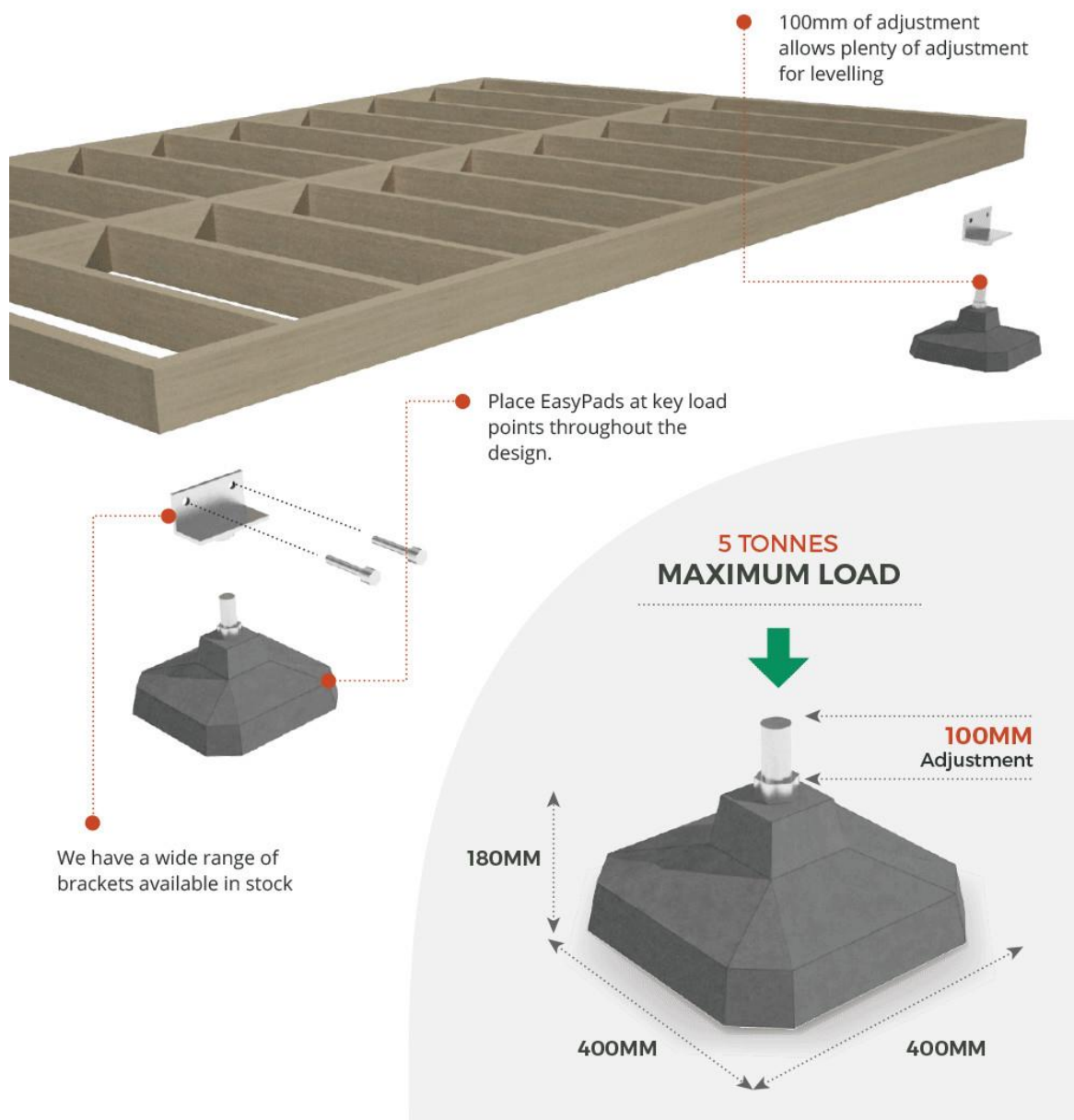
The application is being submitted to seek Wokingham Borough Council's confirmation that the proposed siting of a garden room within the grounds of Tyburn House, for ancillary residential use, would be lawful having regard to the provisions of the 1990 Act and does NOT constitute operational development or a material change of use as per section 55 of the Act, and therefore does not require Planning Permission.

In this statement, reference is made to garden lodge and movable garden lodge for the purpose of planning law they are one and the same thing.

### 3.0 OPERATIONAL DEVELOPMENT

	A movable garden lodge is by definition a “structure”, yet it is settled law that stationing such on land – even for prolonged periods - is a use of the land rather than operational development, this principle is embedded in the legislative framework, endorsed by the case-law <i>Measor v Secretary of State for the Environment, Transport and the Regions</i> (1998) and routinely applied by the Inspectorate.													
	This is because such structures are regarded as an article of movable personal property known as a ‘chattel’ and there is no public law preventing one being kept in someone’s garden.													
	<p>Section 29 (1) of the Caravan Sites and Control of Development Act 1960 defines such as:</p> <p><i>“... Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted but does not include</i></p> <p><i>(A) Any railway rolling stock which is for the time being on rails forming part of a system, or</i></p> <p><i>(B) Any tent”</i></p>													
	<p>For something to be considered a garden lodge it has to meet three key tests as set out in the CSA, these are:</p> <p>(1) Size (2) Mobility (3) Construction</p> <p>In the next section of this report the proposed mobile home will be assessed against the above three tests.</p>													
	<p>(1) Size</p> <p>Section 13 of The Caravan Sites Act 1968 (amended 2006); prescribes the maximum permissible dimensions. We have tested these maximum dimensions against the proposal;</p>													
	<table> <tr> <th></th><th>Maximum CSA Requirement</th><th>Proposal Size</th></tr> <tr> <td><b>Length</b></td><td>20 metres</td><td>6.3 metres</td></tr> <tr> <td><b>Width</b></td><td>6.8 metres</td><td>3.1 metres</td></tr> <tr> <td><b>Overall Height*</b></td><td>3.05 metres</td><td>2.90 metres</td></tr> </table> <p>*(measured internally from the floor at the lowest point to the ceiling at the highest point)</p>		Maximum CSA Requirement	Proposal Size	<b>Length</b>	20 metres	6.3 metres	<b>Width</b>	6.8 metres	3.1 metres	<b>Overall Height*</b>	3.05 metres	2.90 metres	
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	The proposal is smaller in form than the prescribed maximum dimensions, therefore meets the requirements of the size test.													
	<p>(2) Mobility</p> <p>Section 13(1) (a) indicates that a garden lodge is a structure which, "when assembled, [is] 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)".</p>													
	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 – see image. This provides a minimum ground clearance of 150mm and allows for lifting beams to be placed under the structure and therefore lifted by crane and placed onto a flatbed lorry.													
	Please refer to the submitted drawings showing the setting out of the proposed bearers and the locations of steel cross members to enable the lifting of the structure as a single unit. This method enables it to be lifted with a dispersed load and without any structural damage.													

# EasyPAD foundation system.



We consider given the proposed can be lifted as whole unit, the mobility test is satisfied.

In addition to the above, the appeal decision APP/N1025/C/01/1074589 indicates:

*"To fall within this definition the structure must be capable of being moved by road from one place to another in its assembled state. It may be moved by trailer, but it is not excluded from the definition merely because it would be unlawful to move it in such a manner on a highway. The fact that the private drive to [the appeal property] is too narrow to allow the passage of the Park Home in its assembled state along it is not the point. It seems to me that it is the structure that must possess the necessary qualities, not the means of access."*

Appeal Decision by J G Roberts 2002 an Inspector appointed by the Secretary of State. Brentall v. Erewash Borough Council.

*"It is not necessary for it (a caravan) to be towed, only that it is capable of being moved by road"*.

	<p>Brightlingsea Haven Limited and another v. Morris and others 2008.</p> <p><i>"It is irrelevant to the test where the structure actually is, and whether it may have difficulty in reaching a road".</i></p>
	<p>In terms of connection to services, the proposed lodge will be served by electrical and water connections fed from the main dwelling. Below ground connection to the mains sewerage system is also proposed. Regarding this, the appeal decision APP/L5810/X/15/3140569 indicates:</p> <p><i>"any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the mobile home needs to be moved"</i></p>
	<p>Appeal Reference -APP/J1915/X/11/2159970 (Erewash).</p> <p><i>"a. The test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle;</i>  <i>b. Lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most "static" caravans on any lawful caravan site;</i>  <i>c. The fact that the practicalities of mobility (e.g. a narrow driveway or awkward craning points) is immaterial. The test is whether the mobile home possess the necessary structural qualities to achieve theoretical mobility."</i></p>
	<p>(3) Construction</p> <p>The proposed structure is based upon a traditional method of construction and is to be constructed from a series of structural elements; floor, walls and roof. Formed entirely from timber, structural beams, posts and rafters form the basis of the core elements, all sheathed with plywood or similar boarding to form a single, rigid, structural shell. This shell is supported on perimeter beams (bearers) which are in turn, supported on a series of EasyPAD adjustable foundation blocks. These foundation blocks are laid directly onto the ground and there is no proposed anchoring of these foundation blocks to the ground.</p>
	<p>All structural elements, as well as the cavities between the inner and outer sheathing are filled with rigid PIR insulation ensuring that the garden lodge is highly insulated (far more than standard 'off the peg' units) and as such, requires minimal services load in terms of heating or cooling.</p>
	<p>As such, the lodge will be constructed as a single piece, which can be lifted, craned and moved as is necessary under the legal definitions of the act.</p>
	<p>The proposals are clad in sawn oak weatherboarding with low-level skirting faced in thin brick slips, to complement the house and garage. The roof will be finished in cedar shingles, chosen for their robust and lightweight properties.</p>
	<p><b>Summary</b> – The proposal meets the size test and in fact is much smaller than the allowed maximum dimensions. Clear evidence has been provided to prove that the garden lodge can be lifted and moved from the site, while case law indicates that the temporary attachment to services does not constitute permanence, this therefore satisfies the mobility test. The above sections clearly demonstrate beyond reasonable doubt that the proposal meets the three tests as set out in section 13 of the Caravan Sites Act 1968, and as amended in October 2006 (CSA) and should be considered acceptable. As such the proposal does <b>not</b> constitute operational development.</p>

<b>4.0</b>	<b>MATERIAL CHANGE OF USE</b>
	<p>The residential planning unit within which the proposed unit would be sited comprises the property known as Tyburn House, and its immediate garden and driveway grounds, as outlined in red on the submitted plans.</p>
	<p>For there <b>not</b> to be a material change of use, the garden lodge must be ancillary/incidental to the C3 Residential Use.</p>

	<p>Whilst there is no statutory planning definition of ancillary/incidental, there are 4 accepted 'incidental' tests, reported to the House of Commons (Hansard, for 22 November 2005) as arising from relevant case law. These are:</p> <ol style="list-style-type: none"> <li>1) The relationship between the respective occupants.</li> <li>2) The relative size of the house, its garden and the garden lodge.</li> <li>3) The relative scale of accommodation in the garden lodge and the house.</li> <li>4) The degree to which the garden lodge is functionally connected to and subordinate to the use of the dwelling house.</li> </ol>
	<p><b>Relationship</b> – 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. There will be absolutely no intention that the space will be made available for separate, independent, residential use; the electrical and water connections will be shared with the main property. The garden lodge will not have its own utility meters or postal address, and all bills will be shared with the main property. The provision of all meals will be shared as will laundry facilities, storage of domestic items, housekeeping etc. It will also not be registered as a separate unit of occupation, with respect to the payment of Council Tax.</p>
	<p>Whilst the garden lodge might be seen as being capable of independent occupation, this is <b>NOT</b> the basis upon which the Certificate of Lawful Development is being sought. There will be no physical or functional separation of land, and no separate planning unit will be created.</p>
	<p><b>Size/Scale of Accommodation</b> – The proposed unit only results in a small increase in footprint on the site, and the scale of the accommodation is minimal, while providing the necessary facilities. The overall massing is subservient to the main house and has been sized and positioned in relationship to the existing arrangements on site. It will not project any further towards the road than the existing garage at Tyburn House.</p>
	<p><b>Function</b> – Typically, such will be equipped with all the facilities required for independent day-to-day living. It does not follow automatically that once occupied there must be a material change of use simply because primary living accommodation is involved. To confirm, there will be no separate;</p> <ul style="list-style-type: none"> <li>• Address</li> <li>• Post Box</li> <li>• Utility Meters</li> <li>• Services such as phone line or television</li> <li>• Parking</li> <li>• Garden Area</li> <li>• Access</li> </ul> <p>Without the main dwelling, the garden lodge would not be able to function. It would have only the basic facilities for washing and worktop area capable of preparing teas and coffees. Users will be the applicant's immediate family, so there will be a clear interchange of use between the main dwelling and the proposed garden lodge.</p>
	<p><b>Summary</b> – It will be used ancillary to the main dwelling. It is clear the users and the lodge itself will have a reliance on the main dwelling and will be used interchangeably. For the reasons above it is considered that a material change of use will NOT occur.</p>

<b>10.0 CONCLUSIONS</b>	
	<p>The proposal falls within the definitions stated in the 1960 and 1968 Acts and by any reasonable interpretation is a movable garden lodge, therefore is <b>NOT</b> operational development. The applicant states that it will be used ancillary to the main dwelling, this is reinforced by the shared services, the scale of facilities contained within and the fact the planning unit will remain as one.</p>
	<p>For the reasons explained above, it is considered the correct application of planning law should result in the granting of a Certificate of Lawfulness for a Proposed Use of land.</p>

	<p>To summarise, the key elements of the current submission are as follows:</p> <ul style="list-style-type: none"> <li>• The additional accommodation to be provided within the proposed would be a <b>garden lodge</b> as defined in the 1960 Caravan Sites Act (as amended).</li> <li>• The proposed siting would be within the residential curtilage of the existing dwelling.</li> <li>• It would be when sited, and thereafter remain, a <b>moveable structure</b>.</li> <li>• It would not be permanently affixed to the ground, and no operational development would take place.</li> <li>• Its use would always be <b>ancillary</b> to the use of the planning unit that is Tyburn House.</li> <li>• The occupiers of the garden lodge would be of the same family as the occupiers of the main dwelling, and the provision of main meals, laundry facilities, domestic storage etc. would be shared with the occupiers of the main dwelling.</li> <li>• The garden lodge will not be provided with a separate curtilage.</li> <li>• The garden lodge would not have a separate postal address, it would share the existing dwellings utility services, and it will not be registered as a separate unit of occupation with respect to the payment of Council Tax.</li> </ul>
	<p>For these reasons, and having regard to the submitted evidence, there would be <b>no material change in the use</b> of the planning unit, and thus, <b>no development</b> as defined by Section 55(1) of the Town and Country Planning Act 1990 would take place. A <b>Certificate of Lawfulness of Proposed Use or Development</b>, under the provisions of Section 192 of the 1990 Act, should therefore be forthcoming.</p>