

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF
LAWFUL DEVELOPMENT**

Reference no.: 2025/CL/90264/W

Site: 38, Highfield Lane, Lepton, Huddersfield, HD8 0NL

Description: Certificate of lawfulness for proposed use of land
for siting a mobile home

Case Officer: Jessica Irwin

Decision Reference: PROPOSED USE REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date 15-Jul-2025

Site

38 Highfield Lane is an end-terraced property within a row of 5 dwellings. It is constructed from stone, finished in white paint. The house has been extended and altered over time, creating a staggered roofline. Access to the property is to the front and rear with amenity space to the front, side and rear of the property. The property benefits from several outbuildings in varying sizes and materials.

The dwellinghouse is located within the Green Belt in the Kirklees Local Plan and is surrounded by open fields.

Proposal

The applicant proposes to site a mobile home within the curtilage of the dwellinghouse, on the parcel of land forward of the principal elevation, to the front of the integral garage, set back 1 metre from the boundary wall.

The submitted Planning Statement states that the proposed size of the mobile home would be 12.5 in length, 6.5m in width and 3m internal head height with an overall external height of 4m.

Within the north elevation are double doors with a standard door, a standard window, a single pane window and two small rooflights. Within the south elevation are 2 standard windows, a single pane window and 3 small rooflights. The western elevation does not contain any openings. The eastern elevation contains a 3-pane window.

The mobile home would consist of 1 bedroom with ensuite, additional WC, kitchen, dining and living area. The submitted information states that the mobile home is to be for purposes ancillary to the main use of the host dwelling, used as living accommodation for a family member of the owner/occupants of the main dwellinghouse.

Relevant Planning History

N/A

The Law

Section 192(1) of the Act provides that if any person wished to ascertain whether any operations proposed to be carried out in, on, under or over land would be lawful they may make an application to the LPA. If upon application the LPA are satisfied that the operations described in the application would be lawful if instituted at the time of the application the

LPA shall issue a Certificate to that effect. In any other case the LPA shall refuse the application.

Section 191(2) of the Act states that for the purposes of the Act, operations are lawful at any time if: -

“(a) no enforcement action may then 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)....”

Section 55(1) of the Act provides the definition for development and includes the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in use of any building or other land.

Section 55 (2)(d) exempts from the definition of development, the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.

Relevant Test

National Planning Policy Guidance (NPPG) states:-

“the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may holds about the status of the land.” The NPPG also goes on to state that “in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.”

Evidence submitted

The applicant has provided information showing the position and design of the mobile home alongside a Planning Statement and Construction Method Statement. Within the Planning Statement, the applicant argues that the proposal falls within the definitions of a caravan stated in the respective 1960 and 1968 Acts and is therefore a use of the land rather than operational development. The applicant also states that the mobile home will be used as ancillary accommodation to the main dwelling, and this will not function as a separate planning unit to that of the main dwellinghouse and thus is not a material change of use.

Representations

None

Publicity

None

Assessment

In their statement supporting the application, the applicant states that the proposed mobile home will be set within the curtilage of the dwellinghouse, the

proposed mobile home falls within the definition of a caravan in the respective Acts and that the siting of a mobile home is not considered operational development or a material change of use as defined by Section 55 of the Act.

Curtilage

The Oxford English dictionary definition of curtilage is *'The area of land around a house and its surrounding yard and outbuildings used for domestic purposes, as fenced (i.e. enclosed) or marked out so as to have the effect of enclosure'*

Historic mapping from 1955 and before suggests that the land to the side of 38 Highfield Lane has not always been associated with the dwellinghouse. However, it is clear that over time the land has been subsumed into the ownership of 38 Highfield Lane, possibly from 1965 onwards. Moreover, aerial imagery from 2000 to 2023 indicates that the land adjacent to the dwellinghouse has been maintained as amenity space/garden for 38 Highfield Lane. The applicant states that the land has been used for domestic purposes for decades – the Council has no evidence to suggest otherwise. Consequently, it is considered reasonable to conclude that the land has been kept for residential purposes with clear close functional links to 38 Highfield Lane for well over 10 years and would therefore be considered to be curtilage to 38 Highfield Lane.

Taking the applicant's suggestion that the extent of curtilage reflects the extent of current lawful residential use, then the residential planning unit appears to be the extent as shown on drawing number 1004 (ID 1074840).

The Applicants Case

The applicant provides an analysis of the definition of a caravan as set out in the Caravan Sites Act 1968 (as amended). The legislation effectively sets out 3 "tests" that a structure must meet to be defined as a (twin-unit) caravan. These are commonly referred to as the size, construction and mobility tests.

Size

In regard to the size parameters, the applicant states that the mobile home should be classed as a caravan by definition and that the overall size is within the parameters of the statutory dimensions of a caravan. The proposed mobile home would be 12.5m in length, 6.5m in width and 3m internal head height and overall external height of 4m.

Mobility

In regard to the mobility of the structure, the agent states that the caravan will be placed on a swift plinth foundation system and will not be fixed down but rather rest on these foundations under its own weight. This provides a minimum ground clearance of approximately 150mm and allows for lifting straps/rig to be placed under the structure and therefore lifted as a whole by crane and placed onto a flatbed lorry. The supporting statement states that the mobile home has been designed in such a way that once assembled it will have the structural

integrity to be able to be craned or moved as a whole unit. The applicant has also provided several appeal decisions in support of the proposal meeting the criteria of the mobility test, I have summarised these below:

Appeal decision reference APP/N1025/C/01/1074589 indicates that a mobile home is not excluded from the definition merely because it would be unlawful to move it in such a manner on a highway, it is the structure that must possess the necessary qualities for, not the means of access.

Brentall v Erewash Borough Council (2002) and Brightlingsea Haven Limited and another v Morris and others (2008) both establish that whether it is reasonably practicable or safe to move a mobile home by road from its intended location is irrelevant. It is sufficient that it would be possible to tow or convey it by vehicle. Where the structure actually is, and whether it may have difficulty in reaching a road is not relevant. The Erewash case also held that a lack of intention to move the caravan in the short to medium term is not relevant.

Various appeal and court cases (including Erewash, above) have held that attaching a caravan or mobile home to services does not amount to physical connection to the land, as disconnection is a relatively quick and simple matter. Connection to services therefore does not cause the placement of the caravan on land to become “operational development”.

In this instance, the applicant has confirmed that the caravan would be attached to services but would not be physically fixed to the ground.

Construction

In regard to the construction of the mobile home, the agent has provided a construction method statement which indicates that it will be constructed in two distinguishable parts on site with the final act of assembly being the bolting of the two parts together.

Material Change of Use

The applicant submits that the tests for whether or not a use of incidental or ancillary to the primary use are based upon the relationship between the respective occupants, the relative size of the house, its garden and the caravan, the relative scale of the accommodation and the degree to which the caravan is functionally connected to and subordinate to the use of the dwellinghouse.

The applicant states, the mobile home is for additional live accommodation and only amounts to a small increase in footprint and that while it is providing primary living accommodation, the occupant will regularly prepare and eat meals in the main dwellinghouse and use the main facilities within the dwellinghouse.

Assessment – The Council's Case

The applicant sets out the case for granting the certificate within the submitted planning statement. In summary the applicant's grounds for claiming the siting of the mobile home is lawful are predicated on the locating of the mobile home being a use of land rather than a building operations and as such the proposed use to accommodate the applicants parents-in-law does not constitute a material change of use of the land.

Building Operations/Caravan

The applicant provides a detailed analysis of the definition of a caravan as set out in the Caravan Sites Act 1968 and the Caravan Sites and Development Act 1960. It is claimed the "tests" to be applied when considering whether or not a caravan is by definition a caravan turns on three characteristics, namely i) size, ii) mobility and iii) construction. The applicant states the mobile home should be classed as a caravan by definition and claim the overall size is within the statutory size of a caravan. It is also claimed the mobile home can by virtue of its structural integrity be lifted and transported away from the site. Thirdly, the applicant demonstrates that while the mobile home consists of two separate sections individually built on site, the final bolting together of the two pieces to form a single unit still falls within the definition of a twin unit caravan. The applicant refers to several planning appeal decisions made by Inspectors appointed by the Secretary of State.

While these appeal decisions may have some relevance, it is important to note these are made on the merits of these individual cases and not judgments made by the Courts. However, it is accepted the three tests are bourn from a judgement held by the Courts¹ which, when dealing with a planning enforcement notice set out the provisions of the Caravan Sites and Development Act 1960 and the Caravan Sites Act 1968.

Notwithstanding this, it is noted the Court² in a later case noted that while a caravan would not generally fall into the typical definition of a building, the judge stated that he would be wary of holding, as a matter of law, that a structure which satisfies the definition of, for example, a mobile home under s13(1) of the Caravan Sites Act 1968 could never be a building for the purposes of the Town and Country Planning Act 1990.

In this instance the size Section 13(2) of The Caravan Sites Act 1968 (amended 2006); prescribes the maximum dimensions of a caravan:

- (a) length (exclusive of any drawbar): 65.616 feet (20 metres);
- (b) width: 22.309 feet (6.8 metres);
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).

¹ Byrne vs Secretary of State and Arun [1997] EWHC Admin 190

² Measor v SSETR [1999] JPL 182

The proposed size of the structure as shown on the submitted elevational drawings conforms with the dimension allowances prescribed.

The mobility test is based upon the provisions of Section 29 (Interpretation) of the Caravan Sites and Control of Development Act 1990 which defines a 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).”

Section 13(1) of the Caravan Act further provides a definition for the purposes of a twin unit caravan and states that this is 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),

shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled.

The proposed mobile home would rest on swift plinth foundations under its own weight with a 150mm clearance to allow for straps/rig to be placed under the structure. The allowance for lifting straps/rig to be placed under the structure and therefore lifted by crane and placed onto a flatbed lorry indicates a degree of temporary structural means are required to lift the structure.

The applicant has not provided any evidence to demonstrate how, in this instance, the proposed structure will be brought onto the site or assembled although it is states the structure will be constructed on site but provided no construction method or details of structural capabilities. While the applicant states that the structure will have structural integrity to be able for the moved, there any no structural calculations to satisfy the Council the structure is capable of being moved from one place to another. This evidence is vague and ambiguous.

Moreover, the straps/rig are not part of the overall construction of the structure but rather a means in which to “rig” it, should the mobile home need to be lifted at some future date. These supports are required to physically move the unit and are not integral to its structure. The applicant has not elaborated on how the unit can be lifted without providing this additional support nor described what the “rig” entails, therefore it is implied that the rig is required as a structural component of the structure which suggests the structure itself is not capable of being lifted without this “temporary” support. Consequently, it has not been wholly demonstrated the mobility test can be met.

With regard to construction, as noted above in the mobility section of this report, the definition of the twin unit caravan states that the unit should be 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. Within the supporting statement and the construction method statement, the applicant has demonstrated that two sections will be formed on site and then as a final act of construction, bolted together to form the twin unit mobile home.

The in case of Byrne, the Court did not interfere with an Inspectors decision to reason the construction of a log cabin, assembled on site in two section and then bolted together did not comply with s29(1) or s.13(1)(a) of the relevant Caravan Acts. The Inspectors decision was based on a detailed analysis of the facts of that particular case with the inspector deciding that two separate parts were not separately constructed units which were then bolted together and where thus a building operation.

In this case, the applicant has not provided any clear or unambiguous evidence to demonstrate how the two units will be constructed and whether this can reasonably be said to meet the construction test.

As set out in Measor, the Court noted that a caravan may be a building for the purposes of Planning Law although it was held that this was a matter of fact and degree but generally a mobile caravan would not be a building when taking into account factors of permanence and attachment. In other words, a structure that cannot be generally (or ordinarily) regarded as a mobile caravan is capable of being a building on the facts of each case and the degree of permanence and attachment.

As it has been established from the above assessment the applicants have not demonstrated with clear evidence that the structure has met the definition of a caravan as set out in the Caravan Sites Act 1968 for the structure to have the characteristics of a caravan. It cannot be said, therefore, that the structure can generally be regarded as a caravan. It is therefore considered necessary to consider whether it is more appropriate to consider the structure as a building for the purposes of planning law.

The Courts³ have considered that there are three fundamental characteristics of a building operation: size, permanence and attachment to the ground.

Size

The unit will not be, nor has it been suggested can be brought to the site in one piece, it is reasonable to suggest the construction would involve the erection of a structure through the construction of two parts resting on a foundation system with four walls and a roof constructed on top.

The applicant states the “mobile home will be constructed into two distinguishable parts on site.....” suggesting the structure will be delivered

³ Barvis Ltd v Secretary of State for the Environment [1971] 22 P&CR710

to the site in component parts and constructed from these parts with a final act of attaching these modular parts of the structure. As in Byrne, the construction in such circumstances may be regarded as a building operation. As it is not evidenced how the structure will be fully constructed, it is reasonable to assume the building would be constructed from many component parts similar to the building of a traditional building. This is considered to consist of a building operation as defined in Section 55 of the Town and Country Planning Act 1990. The introduction of a building on the land whether or not it falls within the statutory definition of a caravan or not, is not relevant as the actual development in this case, as defined by section 55 relates to a building operation to create the structure.

The resultant building operation creating a building of 12.5m in length, 6.5m in width and 3m internal head height and overall external height of 4m leads to the construction of a sizable building being erected on site..

Permanence

The application implies that the mobile home is intended to be a permanent feature on the site. There is no evidence to suggest any temporary nature of the structure.

Attachment to the ground

The planning statement sets out the means of attachment to the ground via a swift plinth foundation system in which the structure rests on these foundations. Notwithstanding this, it is clear the structure requires some degree of foundation as part of its construction. While the structure may not be physically affixed to the ground, its weight alone would provide a reasonable degree of physical attachment, requiring additional, specialist lifting apparatus for its removal (rig, lifting straps, a crane etc.)

Overall, it is considered the proposed structure in terms of its permanence, size and attachment to the ground can be reasonably described as building operations rather than the positing of a caravan. Consequently, it is therefore considered necessary to consider whether or not the structure may take advantage of any general planning permission by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), primarily Schedule 2, Part 1, Class E relating to any building required for a purpose incidental to the enjoyment of the dwellinghouse. In this instance, as discussed in a previous section of this report, it has been established that the building would not be required for purposes incidental to the enjoyment of the dwellinghouse. Therefore, General Permitted Development Rights would not apply in this instance. In addition, the structure would be forward of the principal elevation of the dwellinghouse and would also fail to meet the height restrictions.

Material Change of Use

Notwithstanding the above, should it be demonstrated the structure is a caravan and not a building and as such a use of the land then development may occur under the definition in section 55 of the Act should the change of use be a material one.

Section 55(2)(d) does provide an exemption to the definition of development where land is used within the curtilage of a dwellinghouse for purposes incidental to the enjoyment of that dwellinghouse. In this respect it is generally considered that primary residential uses such as creating living space cannot be incidental unless they are so short lived (e.g. a guest bedroom) to the degree that it would be unreasonable to suggest the use is an extension of the primary use. In this case and notwithstanding any question of curtilage, the proposed use and design of the structure is for permanent accommodation and thus cannot be incidental. Section 55(2)(d) does not therefore provide an exemption to the definition of development.

The question of development therefore turns on whether the siting of the structure is a “material” change of use or, as the applicant argues an ancillary use to the main use as a single dwellinghouse. The applicant’s statement claims that there are 4 accepted tests. The thrust of the appellants argument is that the occupation of the structure will be by the applicant’s family member and there will be a clear, functional interchange of use between the main dwelling and the mobile home by all occupants. It is intended that the occupant of the mobile home will be regularly preparing and eating meals in the main dwelling, socialising with the occupants of the main dwelling and using the main dwelling’s household facilities. It will not function as a separate dwellinghouse. It is claimed the structure creates a small increase in footprint, the scale of the accommodation is minimal and that the mobile home will not have a separate address, post box, utility meters, services, parking, garden or access – the applicant claims that without the main dwellinghouse the mobile home would not be able to function. The occupant of the mobile home will be a close family member of the owner/occupiers of the host dwelling, so there will be a clear functional interchange of use between the main dwelling and the mobile home by all occupants.

The mobile home is large and benefits from an ensuite bedroom, kitchen, living, dining facilities, a water closet and utility room and would appear to be capable of operating as a separate dwellinghouse irrespective of service connections. It is accepted the mobile home would not create a separate planning unit to that of the host dwelling – the occupant of the mobile home would be a family member of the occupiers of the dwellinghouse sharing the main households facilities, therefore, the occupants of the proposal and the main dwelling will interact (e.g. at mealtimes) in the main house and garden, sharing a close functional link with the main dwelling. However, the siting of the mobile home introduces an use primary living use which would appear excessive for the nature of use it is proposed to serve (i.e. not necessary for the cooking of meals, relaxing space etc.). The Court⁴ held that it was not appropriate to concentrate on what was appropriate to a particular use, but to see what a use in general

⁴ Harrods Ltd v Secretary of State for the Environment [2002] JPL 1321

had as reasonably incidental activities. In the case, the siting of a large mobile home with all the facilities for comfortable day to day living, despite not entirely necessary for the proposed use seems to introduce a feature into the planning unit which would not normally be generally expected to be sited at a typical dwellinghouse.

In these circumstances, on the balance of probabilities the applicant has not demonstrated such a large mobile home with more living space than what is necessary can be ancillary to the host dwellinghouse.

Conclusion

The proposed mobile home is not considered to meet the criteria of the definition of a caravan as described in the Caravan Sites Act 1968 (as amended). The legislation effectively sets out 3 “tests” that a structure must meet to be defined as a (twin-unit) caravan. These are commonly referred to as the size, mobility and construction tests. The applicant has not provided clear evidence to demonstrate the proposed structure meets the mobility requirements as it appears a supporting rig is required to physically move the unit and are not integral to its structure. Therefore, and as set out above the construction of the mobile home would be considered a building operation, when assessing the structure against the permitted development rights for outbuildings incidental to the enjoyment of the dwellinghouse, this does not meet the requirements as the building is not required for a use incidental to the enjoyment of the dwellinghouse, its location forward of the principal elevation and its height within 2 metres of the boundary of the curtilage of the dwellinghouse.

Decision Text

It is considered at the time of this application and on the balance of probability, the evidence provided and that held by the Local Planning Authority does not demonstrate that the proposed structure is not a building for the purposes of the Town and Country Planning Act 1990 or that the development of the land to provide a residential building either benefits from or does not require a grant of planning permission.