

Application for Certificate of Lawful Use for the proposed siting of a Caravan/Mobile Home for ancillary residential use in garden at 31, Rhodfa Terrace, Merthyr Road, Troedyrhiw, Merthyr Tydfil, CF48 4JG

Statement of Evidence



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1. INTRODUCTION

- 1.1 This application is for a Certificate of Lawfulness under 192 of the Town and Country Planning Act 1990 (as amended by Section 10 of the Planning and Compensation Act 1991) for the proposed use of land comprising part of the garden of 31, Rhodfa Terrace, Merthyr Road, Troedyrhiw, CF48 4JG, for the siting of a caravan/mobile home for ancillary residential use in the position indicated on the accompanying plan.
- 1.2 Under section 192 of the Act an application may be made to ascertain whether any proposed use of buildings or other land would be lawful.
- 1.3 Section 192 says, if the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.
- 1.4 This is not an application for planning permission and the Development Plan considerations do not fall to be considered in an application for a Certificate of Lawfulness for a proposed use or development. The current application falls to be determined having regard solely to matters of evidential fact and law, with the onus of proof on the applicant, there is no requirement for it to be publicised. Similarly, as the policies of the Development Plan (or the National Planning Policy Framework) are not relevant to the determination of an application submitted under the provisions of Section 192, any concerns regarding potential impact on the character or appearance of the area are not matters that the Council can attach any weight to. The Courts have held that the relevant test of the evidence on such matters is the balance of probability.
- 1.5 Planning permission can be required only where development takes place, and development is defined in Section 55(1) of the Town and Country Planning Act 1990 as being:
- “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”.
- 1.6 This Statement of Evidence will provide justification for concluding that the structure proposed for siting at the application address is a caravan as defined in the Caravan Sites and Control of Development Act 1960 (as amended), that it is sited within the garden of 31, Rhodfa Terrace, and will be used solely for purposes ancillary to the residential use of 31, Rhodfa Terrace, that its’ siting in the garden would not constitute operational development or a material change of use. As it is not “development” it can be carried out without planning permission.

2 BACKGROUND

2.1 The application site comprises the dwellinghouse and its curtilage 31, Rhodfa Terrace, Merthyr Road, Troedyrhiw, Merthyr Tydfil, CF48 4JG.

2.2 The caravan proposed will be sited at the foot of the rear garden and is for purely ancillary residential use for the applicants' own family enjoyment. [REDACTED]

[REDACTED] She needs accommodation on one level and needs the support of her daughter and the opportunity to live safely with her family. The caravan/mobile home in the garden offers some personal space but her daughter will provide close support from the house across the shared garden space.

2.3 The siting of the caravan/mobile home is shown on the accompanying plans. It is to be sited on an existing hard-surfaced terrace. Its siting does not involve any construction of deep foundations, instead the caravan/mobile home sits under its own weight on height adjustable feet on the hardstanding. The caravan is designed with the appropriate structural integrity to allow it to be lifted and moved around the site or off the site as required. This simple placement of the mobile home which will, at some point in the future be removed, does not amount to a significant physical attachment to the land.



Foot of garden showing location of proposed caravan

- 2.4 The photograph below shows the same model caravan at another location to illustrate the absence of any significant and permanent attachment to the ground.



- 2.5 Plans of the caravan/mobile home also accompany this application together with details of the feet which are individually height adjusted to achieve a level floor on uneven ground.

3. USE FOR SITING OF A CARAVAN

- 3.1 Not all caravans/mobile homes take the typical form of a static or touring caravan. The definition of a caravan is provided in section 29(1) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) as follows:

“... 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:

Any railway rolling stock which is for the time being on rails forming part of a railway system, or any tent.”

- 3.2 This definition has been modified by Section 13 (1) of the Caravan Sites Act 1968 (“The 1968 Act”), which also deals with larger twin-unit caravans. This provides that:

“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 not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled.”

- 3.3 There is no requirement that a caravan must have wheels and no description as to how it should appear and from what materials it should be formed.
- 3.4 The maximum dimensions for twin-unit caravans allow for a maximum length of 20 metres by a width of 6.8 metres, with a maximum internal height of 3.05 metres.
- 3.5 The separate definition of a caravan relies upon the structures’ mobility which differentiates it from a building, and it is long-established that the siting of a caravan usually involves a use of land but the possibility of a caravan also being a building cannot be entirely ruled out, however, the statutory definition provides a strong indication that the siting of mobile homes of such size are uses of land rather than operational development. The structure proposed meets the definition of a caravan and because of its impermanence and its mobility and lack of significant physical attachment to the land does not involve operational development.

4. EVIDENCE

4.1 In order for something to be considered a caravan/mobile home, it has to meet three key tests as set out in the Caravan Sites Act (CSA), these are:

(1) Size.

(2) Mobility.

3) Construction.

4.2 **Size** – Section 13(2) of the CSA sets the dimensions for a larger twin unit caravan.

Maximum CSA Requirement		Proposal
Length	20m	7.6m
Width	6.8m	5.4m
Internal Height 3.05m		2.3m (internal) 2.5m (external)

4.3 The proposal is therefore comfortably below the maximum permitted dimensions.

4.4 **Mobility** – Section 13(1) (a) of the CSA 1968 indicates that a caravan 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)”.

4.5 The proposed caravan would not be physically attached to the land, to the extent that it would not be capable of being moved. It will rest upon the ground under its own weight and on adjustable ‘feet’. Services will be linked to the caravan/mobile home, but these services can be disconnected easily and within minutes so, in the absence of any significant connection to the ground, if necessary, the structure can be lifted without structural damage. It has a steel chassis, is constructed with very robust materials and the manufacturer has experience of moving these structures by crane. The photograph above shows the same model caravan above the ground and on feet, and the method of moving the caravan once fully assembled, is attached to this application (Method Statement for Lifting Structure).

4.6 In the case of *Carter and another v Secretary of State for the Environment and another* [1994] 2 EGLR 194, the Court of Appeal held that for the caravan to meet the mobility test the structure as a whole, must be capable of being moved by being towed or transported on a single motor vehicle or trailer. The caravan definition is clear that the fact a caravan may not lawfully be moved on a highway when assembled (because of its size or road standard limitations) does not mean it ceases to be a caravan. The fact that a site may be constrained, for example by fences or the presence of nearby trees, similarly does not mean that the structure ceases to be a caravan. The definition of a caravan requires only that “it is, when assembled, physically capable of being moved by road from one place to another”. The Romford appeal case attached at Appendix 1 is clear at paragraph 13 “a lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network, but the mobile home should possess the necessary structural qualities to permit its movement in one piece without structural damage”.

4.7 The proposed caravan does possess the necessary structural qualities to permit its movement in one piece, the evidence accompanying this application and the common experience and

practice of the company demonstrates that it is designed to be transportable once fully assembled. The caravan manufacturer will move the caravans and relocate them to other locations if they are resold after owners no longer need them, and it also offers a rental service, where the caravans are rented for a period when needed and are then removed/relocated when no longer needed.

- 4.8 The caravan must be capable of being moved, but it does not cease to be a caravan just because it is not moved or because its movement or relocation is challenging. Nonetheless this caravan/mobile home is not intended to be a permanent addition to the land, it could be moved around, and it can be readily removed once, as inevitably happens, family circumstances change and it is no longer needed. The caravan/mobile home meets the second key test of the CSA.
- 4.9 **Construction** – The structure must be designed for human habitation. In the case of a larger caravan Section 13(1)(a) of the CSA 1968 says a twin-unit caravan is a structure designed or adapted for human habitation which—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... and 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).
- 4.10 The evidence accompanying the application shows a caravan/mobile home floor plan showing the facilities necessary to make it habitable. The manufacturer's caravans are built to individual customer requirements and so have slightly different internal configurations but have all the facilities one would expect in a caravan designed for human habitation.
- 4.11 The proposal is prefabricated within the factory and then assembled on site over a very short period of time. Whilst it is common for many mobile homes to be delivered as a complete unit or as two halves that are then joined together on site, case law has established that there is no requirement that the process of creating the caravan must even take place away from site. In *Byrne v SSE and Arun DC QED 1997* concerning a larger twin unit mobile home, it was found that: "Though the Park Home was delivered by lorry in many pieces, I see no requirement in section 13(1)(a) that the process of creating two separate sections must take place away from the site on which they are joined together. It is necessary only that the act of joining the two sections together should be the final act of assembly". In the West Devon Borough Council appeal case attached at Appendix 1A (Ref: APP/Q1153/C/08/2064995) the Inspector held that it was only necessary that, in the case of larger mobile homes, the act of joining the two sections together should be the final act of assembly. The same conclusion was reached in connection with the London Borough of Romford Case where the Inspector says, "*the Council appear not to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in paragraph 8 above, was not satisfied*". (Ref: APP/B5480/C/17/3174314) attached at Appendix 1.
- 4.12 The caravan at 31, Rhodfa Terrace, will arrive on site in pre-formed pieces with the final act of assembly comprising the joining of two halves by bolts as illustrated in the photographs below.



Two parts of caravan ready to be joined together.



Note ratchet pulley to pull halves together and line of bolts in vertical plane awaiting tightening



Bolts connecting two halves with access panel for tightening

- 4.13** The photographs below show the same model caravan/mobile home being joined by lifting and rolling the parts together.



First part in place, note shallow padstones in place in readiness for second part.



Second part of caravan within steel cradle before joining to first part



Second half being lifted into place on supporting cradle



Second half in place after it is aligned and pulled together and joined.

- 4.14** The accompanying caravan lifting method statement shows how the entire range of the manufacturers' caravans are capable of being lifted and moved. It is fully portable; the use of a lifting cradle ensures that the structure is not damaged in the process.

Statement of evidence, 31, Rhodfa Terrace, Merthyr Road, Troedyrhiw, Merthyr Tydfil, CF48 4JG
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Same model caravan being lifted whole onto lorry for transportation

- 4.15 The caravan/mobile home at 31, Rhodfa Terrace can be lifted whole when fully assembled and moved within the adjustable steel cradle shown in use in the photographs above and below. The caravan/mobile home is therefore designed for human habitation, it is constructed in a manner which when finished is capable of being moved, and thus meets the third key test of the CSA.

5. USE

- 5.1 Section 55(2)(d) of the Town and Country Planning Act 1990 states that “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” does not involve “development of land”. As it is not “development” it can be carried out without planning permission. A caravan/mobile home may be sited within the curtilage of a dwelling without planning permission if its use is ancillary/incidental to the use of the dwelling. This would apply even if it had all facilities within it that enabled the occupier to live independently. What defines an incidental/ancillary use is a matter of fact and degree, however to assist, *Uttlesford District Council v Secretary of State for the Environment & White* [1991] remains one of the leading cases in respect of the use of an existing building within the curtilage of a dwellinghouse, for the provision of ancillary residential accommodation, Mr Lionel Read QC (sitting as a deputy judge of the Queen’s Bench Division) concluded that a building within the garden of a property could be used as an integral part of the main residential use, without this representing a breach of planning control (i.e., a material change of use). As he noted in his judgement:

“... the elderly relative to be accommodated would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of the family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.”

- 5.2 Examples of this in connection with caravans, include the East Hertfordshire appeal case (Ref: APP/J1915/X/11/2159970) where the inspector determined that a fully equipped mobile home occupied by the elderly parents of the applicants was lawful, and in Esher a mobile home to provide ancillary staff accommodation but with all the facilities of an independent home, was also found not to require planning permission (Appeal decision APP/K3605/X/12/2181651). A similar decision was reached by a planning Inspector in Teddington in 2016 (APP/L5810/X/15/3140569). More recently an enforcement appeal decision in Welwyn and Hatfield District confirmed a caravan with all facilities of an independent home sited within the curtilage of a dwelling house and occupied by the nephew of the owners was lawful (Appeal Decision APP/C1950/X/20/3247983) and at Heathfield House, West End Road, Tiptree CO5 0QH (APP/A1530/X/17/3177321) which acknowledges that “typically, a caravan 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. Much depends on how the caravan would actually be used.” In June 2024 an appeal relating to the same model caravan and for occupation by the homeowners’ mother thus representing similar circumstances to that proposed at 31, Rhodfa Terrace, was allowed for an address in Stirling, Scotland. Paragraph 6 of the Reporter’s decision letter presents a useful summary of the issues (Certificate of Lawful Use appeal reference: CLUD-390-2004). All the above decisions are attached at Appendices, 1B, 1C, 1D, 1E, 1F and 1H.
- 5.3 The general approach of the Courts is that it is the actual use of a caravan/mobile home that is the determining issue, rather than its potential to be occupied as a self-contained residential unit for whilst there is no statutory planning definition of ancillary/incidental, there are a number of broadly accepted ‘incidental’ tests as arising from relevant case law.

These are:

1) The relationship between the respective occupants – in this case there is an immediate family connection between the prospective occupier of the caravan/mobile home and the occupiers of the dwelling. The caravan's intended occupier is the elderly mother of the house owner. The owner's mother needs some personal space but she also needs care and support which cannot be easily achieved in her home in Kent.

2) The relative size of the house, its garden and the caravan – the proposed caravan/mobile home is modest in scale and significantly smaller than is permitted under the CSA and is smaller than many of the appeal examples cited above. The house plot has an area of approximately 350 sq. m whilst the caravan has a footprint of under 30 sq. m. The garden will be shared and there will be no physical or functional separation.

3) The relative scale of accommodation in the caravan/mobile home and the house – the accommodation within the proposed caravan/mobile home is the minimum needed and there will continue to be a sharing of facilities within the dwelling house such as laundry and kitchen facilities. A physical and functional link will remain.

4) The degree to which the caravan/mobile home is functionally connected to and subordinate to the use of the dwelling house – the caravan/mobile home is to be subordinate to the use of the dwelling and curtilage and does not create a new planning unit. There is absolutely no intention that the caravan will be made available for separate, independent, residential use. It will share the services of the main house, the same postal address, the same garden and wider curtilage, and it is to be used only by members of the same family who each have access to both the caravan/mobile home and the dwelling, sharing the garden, sharing day-to-day living facilities, sharing expenses and socialising with and caring for one another. Whilst the proposed mobile home/caravan does have limited space for cooking there is not a full-size kitchen and many domestic tasks such as laundry and cooking will often be carried out within the house. Reference to the appeal decision at Welwyn Hatfield District (Appendix 1E) acknowledged that the applicant's nephew spent "most of his time in the caravan but remains close to and relies upon the members of the family". The same scenario is proposed at 31, Rhodfa Terrace. There will not be any physical or functional separation of the garden land and there is no intention to make the caravan available as a separate dwelling. The house and its garden will remain in use as a single dwellinghouse, by a single family, and the character of the usage and the intensity of use will not change. The proposal will not result in the formation of a separate dwellinghouse or the creation of a new planning unit.

- 5.4 In support of this line of argument I attach a Transcript of House of Commons Debate (22 November 2005). This debate, in part, concerned the stationing of caravans belonging to gypsies and travellers within the curtilages of the residential properties that they had purchased. Reference (on page 3) is made to paragraph 29 of former Circular 01/1994 which stated; "Some kinds of activity will not fall within the definition of 'development' in Section 55 of the 1990 Act and will not therefore require planning permission. Any gypsy living in a dwellinghouse will not require planning permission to use a caravan within the curtilage of the dwellinghouse, provided that the purpose is incidental to the enjoyment of the dwellinghouse as such. A caravan within the curtilage of a dwellinghouse may have a number of ancillary uses for which planning permission would not be required. For example, it could be used for additional living accommodation, provided that it remained part of the same

planning unit as the dwellinghouse and the unit remained in single family occupation." This principle can be applied equally to the settled population as well as to dwellings occupied by the gypsy community.

- 5.5 The application must be assessed on the basis of the stated ancillary use. Whilst the caravan/mobile home might therefore be seen as being capable of independent occupation, this is not the basis upon which a Certificate is being sought. There will be no physical or functional separation of land, and no separate planning unit will be created. Provided it is occupied as ancillary to the occupation of the dwellinghouse in the manner described it should be clear that no material change of use will occur. These issues are addressed in clear terms in the appeal decision at Buckingham Road, Bletchley, Milton Keynes (ref: APP/Y0435/X/15/3129568 attached at Appendix 1G). In this decision the Inspector noted that whilst the proposed caravan would have contained all the facilities for independent living it would not have been used in that way. There would have been a functional link with the main dwelling. The use of the caravan in the manner described in the application would have been a use comprised part and parcel within the primary dwellinghouse use which was already taking place within the planning unit, as a matter of fact and degree. For this (and other) reasons it was found that, had the caravan been sited and its use instigated at the time of the LDC application, there would not have been a breach of planning control. The siting and use of the caravan for the purpose of providing additional living accommodation as described in the application would have been lawful as a matter of fact and degree.

6. CONCLUSION

- 6.1 By any reasonable interpretation the proposal falls within the definition of a caravan as stated in the 1960 and 1968 Acts and given its very limited connection to the land and the absence of any foundation its siting within the curtilage of 31, Rhodfa Terrace is not operational development. Its partial assembly on site is not a factor in determining whether it meets the definition of a caravan because once fully assembled it will remain a movable structure and will not be permanently affixed to the ground.
- 6.2 It is to be sited within the established domestic curtilage of 31, Rhodfa Terrace and will be used for purposes that are incidental/ancillary to the use of and occupation of the main dwelling. It will use the dwellings' services and will have the same postal address. There will be no physical division of the plot, no change in ownership and most importantly, it will be occupied only by an immediate family member so the character of the use will be that of a single dwelling and single household. The planning unit will remain as one. Observations from outside of the site will see barely any change in the manner of activity at the address, there will be no independent use and no new planning unit, as it does not bring about a material change of use of the land the siting of the caravan is not development requiring planning permission.
- 6.3 Based on this information the caravan will simply provide additional accommodation for use by one family. It is not permanent and will be removed when it is no longer needed. This is consistent with and indeed part of the primary residential dwelling house use.
- 6.4 For the reasons explained above, and the case law and appeal precedents put forward, it is considered the correct application of planning law and judgement of the particular circumstances of this case on the basis of fact and degree, should result in the granting of a Certificate of Lawfulness for siting of the caravan/mobile home generally as described and shown on the submitted plans for purposes incidental/ancillary to the occupation 31, Rhodfa Terrace.

APPENDICES

Appendix 1	London Borough of Havering appeal case (Ref: APP/B5480/C/17/3174314)
Appendix 1A	West Devon Borough Council appeal case (Ref: APP/Q1153/C/08/2064995)
Appendix 1B	East Hertfordshire appeal case (Ref: APP/J1915/X/11/2159970)
Appendix 1C	Esher appeal case (Appeal decision APP/K3605/X/12/2181651)
Appendix 1D	Teddington appeal case (Appeal decision APP/L5810/X/15/3140569)
Appendix 1E	Welwyn and Hatfield case (Appeal decision APP/C1950/X/20/3247983)
Appendix 1F	Colchester Borough Council (Appeal decision APP/A1530/X/17/3177321)
Appendix 1G	Milton Keynes Council (Appeal decision APP/Y0435/X/15/3129568)
Appendix 1H	Stirling Council (Appeal decision reference: CLUD-390-2004)

Method Statement for moving fully assembled structure.

Forms of Caravan feet

Transcript of House of Commons Debate (22 November 2005)