

LOCATION:	Vanya Cottage , 1 Orchard Hill, Windlesham, Surrey, GU20 6DB
PROPOSAL:	Certificate of Lawfulness for the proposed stationing of a mobile home for purposes ancillary to the main dwelling.
TYPE:	Certificate Proposed Development
APPLICANT:	Mr and Mrs Cope
OFFICER:	Melissa Turney

RECOMMENDATION: ISSUE CERTIFICATE

1.0 SUMMARY

- 1.1 The application is for a Lawful Development Certificate for the proposed stationing of a mobile home for purposes ancillary to the main dwelling. Planning merits, for example the impacts upon residential amenities, are not relevant to the determination of this application.
- 1.2 The application is made on the basis that the proposal would not constitute development as set out in Section 55(1) of the Act.
- 1.3 The legal definition of a caravan was established in Section 29 of the Caravan Sites and Control of Development Act 1960, adapted in the Caravan Sites Act 1968 to include twin unit mobile homes and again in 2006 when the size of what is considered a caravan was increased. There are three elements to the test of the unit being a caravan which are construction, mobility and size.
- 1.4 The structure would meet the definition of a caravan and it is considered that the method of construction proposed would meet the tests of the Caravan Act. The mobile home would be capable of being removed from the site in two pieces, via a crane and placed onto a flatbed lorry and therefore it is considered that the development would meet the mobility test. The measurements for the proposed mobile home would be 13.6 metres by 6.55 metres with an internal height of 3 metres which would comply with the dimensional criteria for a caravan.
- 1.5 Due to the shared facilities, such as the occupiers of the mobile home would be reliant on the main dwelling for laundry facilities; the applicants would provide support to the occupiers of the mobile home with day to day activities; the shared access; and, the modest scale of the mobile home, it is considered that the use of the structure would be ancillary to and dependent on the host dwelling, and that it would not represent a material change of use of the land. It is therefore considered that the siting and use of the caravan would not result in the creation of a separate planning unit.
- 1.6 On the basis of the evidence submitted, the application is recommended for approval.

2.0 SITE DESCRIPTION

- 2.1 The application site is Vayna Cottage, 1 Orchard Hill which is located within the settlement boundary of Windlesham. The site is located on the northern side of Orchard Hill and comprises a detached chalet bungalow which has been previously extended, with single storey side and rear extensions and side dormers. The site also have an outbuilding and garage are located adjacent to the dwelling to the east.
- 2.2 The surrounding area is comprised of predominantly residential in nature characterised by detached and semi-detached dwellings. Orchard Hill is characterised by detached chalet bungalows similar to the application dwelling. To the rear of the site is an access road which provides access to a number of dwellings to the east and north east of Orchard Hill. This access road is lined by mature trees adjacent to the rear boundary of the site.

3.0 RELEVANT HISTORY

- 3.1 21/0817/FFU Single storey side and first floor side extension. Granted
- 3.2 24/0056/FFU Erection of a timber single storey granny annexe for ancillary use to the main dwelling.

This application is reported elsewhere on this agenda.

4.0 THE PROPOSAL

- 4.1 This is an application for a proposed lawful development certificate for the proposed stationing of a mobile home for purposes ancillary to the main dwelling.
- 4.2 The outbuilding would be sited within the rear garden of the dwelling. It would have a maximum width of 13.6m, a depth of 6.55m and a maximum height of 4.1m. It would be sited 0.6m from the east boundary, 0.5m from the west boundary and 2.2m from the rear boundary at the closest points. It would be self-contained and would provide two bedrooms, a kitchen and living room, a shower room and a hallway.
- 4.3 The applicant has confirmed that it would be used by their parents. While there would be bedrooms and kitchen facilities they will be reliant upon the main dwelling for laundry and daily support issues and they would share the external amenity space.
- 4.4 A Planning Statement, including appeal examples, has been submitted in support of this application. Relevant extracts from this document will be referred to in section 7 of this report.

5.0 CONSULTATION RESPONSES

- 5.1 The following external consultees were consulted and their comments are summarised in the table below:

External Consultation	Comments Received
Windlesham Parish Council	Objection:

- Appears to be the same as 24/0056/FFU request whether full planning permission is required.

[Officer comment: This application considers that planning permission is not required for the mobile home. However, 24/0056/FFU is constructed in a different way and therefore requires planning permission, further details of this application are reported in the agenda]

- Request that SHBC confirms whether it complies with the relevant legal definition of a caravan in terms of size, construction and mobility

[Officer comment: The reports conclude that the proposal meets the legal definition of a mobile home]

- Query the screw pile foundation systems and whether this means that the mobile home would be fixed to the ground so would not meet the test

[Officer comment: The mobile home would be placed on a screw pile foundation system and would not be fixed down, rather resting on these foundations]

- Request a condition that home would only be used for purposes ancillary to the main dwelling and should not be let out.

[Officer comments: As this application for a certificate of lawfulness a condition cannot be attached. However, should the mobile home be rented out or sold enforcement action could be taken]

- Would there be need to remove trees?

[Officer comment: The proposal would not require the removal of trees]

6.0 REPRESENTATION

- 6.1 The Council's Statement for Community Involvement (2020) refers to the Town and Country Planning (General Development Management Procedure) Order 2015 which sets out that there is no requirement to consult neighbours on Lawful Development Certificates. As such no neighbour notification letters were sent advertising this application.

7.0 EVALUATION OF THE APPLICATION

- 7.1 The Government provides guidance on Certificates of Lawfulness through the Planning Practice Guidance (PPG). In respect of the content of a lawful development certificate, Paragraph 006 of the PPG advises that an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.
- 7.2 The PPG goes on to explain that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter would be lawful. Planning merits are not relevant at any stage in this particular application.
- 7.3 The issues to therefore consider in determining this certificate are:
1. Whether the proposal constitutes "development"
 2. If so, whether the proposal requires planning permission.
- 7.4 The application is made on the basis that the proposal would not constitute development as set out in Section 55(1) of the Act. It has been established through case law that caravans are not a structure or a building, however, the siting of the caravan can be a material change of use of the land. This application seeks confirmation that the siting of the caravan would not result in material change of the use of the land due to the fact it would be ancillary to the main dwellinghouse. The assessment of this application therefore comprises:
- 1) Is the mobile home a caravan?
 - 2) Would the mobile home be ancillary to the main dwellinghouse? Does the provision of ancillary, non-permanent accommodation constitute a change of use of the land or the creation of a separate planning unit, which constitute development?

7.5 Assessment as to whether the mobile home meets the definition of a caravan

- 7.5.1 The legal definition of a caravan was established in Section 29 of the Caravan Sites and Control of Development Act 1960, and was amended by the Caravan Sites Act 1968 to include twin unit mobile homes and again in 2006 by statutory instrument where the size of what is considered a caravan was increased. There are three elements to the test of whether the unit is a caravan, which are construction, mobility and size.
- 7.5.2 Section 29 of the Caravan Sites and Control of Development Act 1960 defines a caravan as "*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).*" This was modified by Section 13 (1) b) of the Caravan Sites Act 1968 which states that "*a twin-unit caravan 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 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.”

- 7.5.3 For the purpose of this assessment taking into account the above legislation the mobile home can be of a twin or a single unit construction and does not need to be mobile in its own right, i.e. with wheels or capable of being towed by a vehicle. However, the structure would be required to be capable of being moved as a whole unit or in two sections for example by a crane and loaded onto a lorry bed. The Act sets out the maximum dimension of the caravans. Further the Act sets out the construction tests. Lastly to be a caravan the structure is required to be adapted for human habitation.

The Construction Test

- 7.5.4 The submitted planning statement outlines that the mobile home would be a twin unit and would be constructed on site from multiple pieces. The planning statement sets out the final act of assembly will involve the bolting the twin parts together which is shown in plan number 217.12.23D.10.23.07 with further details of the methodology provided in Appendix K of the planning statement. Although the unit would arrive at the site in several pieces, there are a number of appeal decisions (which can be found in the planning statement) and case law where it has been concluded that this would not prevent the unit being defined as a caravan, as the final act of assembly would be the bolting of the two complete sections together as required by the Caravan Act.
- 7.5.5 In this case, the agent has detailed that the structure will be assembled on site and the two halves will be bolted together on site. As outlined below, the mobile home would remain capable of being lifted. The proposal is therefore considered to meet the construction test.

Mobility Test

- 7.5.6 It has been confirmed in the submitted planning statement that the mobile home would be placed on the land but not attached to it. The mobile home would be placed on a screw pile foundation system and would not be fixed down, rather resting on these foundations. There would be a timber strip forming a 'skirt' but this would be for aesthetic purposes and would not be fixed to the ground. Specific structural calculations, detailed in Appendix J of the submitted planning statement, show that the load can be evenly dispersed ensuring the caravan can be lifted by a crane and placed on a flatbed lorry. The ground clearance of 150mm, allows the use of lifting straps/rigging to be positioned under the structure allowing it to be lifted and removed from the site in two pieces, via a crane and placed onto a flatbed lorry. It is therefore considered that the development would meet the mobility test.

Size Test

- 7.5.7 The maximum size of caravans was set out in the Caravan Sites and Control of Development Act 1960, further modified to include twin-units under the Caravan Sites Act 1968 and again in 2006 when the maximum sizes were increased. The dimensional criteria are currently 20m in length (external, including drawbar), 6.8 metres in width (external, excluding roof overhang) and 3 metres in height (internal measurement from internal floor to maximum ceiling height). The measurements for the mobile home proposed would be 13.6 metres by 6.55 metres with an internal height of 3m. This shows that the proposed mobile home would comply with these limits. It is therefore considered that the structure would meet the size test.
- 7.5.8 The proposed structure would therefore qualify as a caravan for the purposes of the Caravans Act 1960.

7.6 Assessment of whether the caravan would be ancillary to the dwelling house

- 7.6.1 The siting of the caravan on land can constitute development as a material change of use of the land. It has been established through case law and previous appeal decisions that annexes do not result in a material change of use having occurred, even if they include facilities that enable the occupant to live independently. Under *Uttlesford DC v SSE & White* [1992], the Court considered that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree.
- 7.6.2 Although the mobile home would be self-contained and include a kitchen and shower room, the applicant has set out that the building is within the curtilage of the main dwelling and is to function as part and parcel of the main dwellinghouse. It has been stated in the submitted planning statement that the purpose of the mobile home is to provide accommodation for the applicant's parents who requires the care and support. Shared facilities would consist of the use of washing facilities. Furthermore, support and help would be provided to the applicant parents by the occupiers of the main house in relation to day to day activities.
- 7.6.3 Furthermore, utilities would be jointly billed and the mobile home would share services such as internet, phone line and television with the main dwelling and the mobile home would be used by the applicants parents and not be rented out or sold separately. There would also be no new postal address created.
- 7.6.4 Locationally, the mobile home would also retain a functional relationship with the main dwelling. It would be situated in the rear garden of the application site, approximately 15m from the dwellinghouse with the location within the garden being chosen as it is level and will require no groundworks to take place and there would be no subdivision of the curtilage of no. 1 Orchard Hill. The property would also retain one access point from Orchard Hill which would be shared and no separate, private entrance to the mobile home would be created.
- 7.6.5 By virtue of the shared facilities including the support from the applicants will provide the occupiers of the mobile home with day to day activities; the shared access and the modest scale of the mobile home (which complies with the construction, mobility and size test), it appears that the use of the structure would be ancillary to the host dwelling. As such based upon a fact and degree assessment, the siting of the caravan would not represent a material change of use of the land nor the creation of a separate planning unit. The proposed use would therefore be lawful.

8.0 PUBLIC SECTOR EQUALITY DUTY

- 8.1 Under the Equalities Act 2010 the Council must have due regard to the need to eliminate discrimination, harassment or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex and sexual orientation. This application has been processed and assessed with due regard to the Public Sector Equality Duty. The proposal is not considered to conflict with this duty.

9.0 CONCLUSION

- 9.1 Having considered the submission, and as a matter of fact and degree, there is sufficient precision and unambiguity within the evidence, that the proposed mobile home would fall into the definition of a caravan and its use would not constitute a material change of use of the land nor would a separate planning unit be created.

9.2 Accordingly, it is recommended that a Lawful Development Certificate should be issued.

10.0 RECOMMENDATION

ISSUE CERTIFICATE
