

Mr Baeza
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF

Our Ref: PLAN 1180

12 January 2021

Dear Mr Baeza

Applicant: Mr A Baylis
Site: 18 Normandy Drive, East Preston
Proposal: Certificate of lawfulness under section 192 for siting of a caravan for ancillary use to existing dwelling

Please find enclosed a completed electronic application for the above proposal. The application submission includes the following:

- Completed application form
- Site Location Plan and Site Block Plan
- Covering letter

A Certificate of Lawfulness under Section 192 is sought for the siting of a caravan for ancillary use to the existing dwelling at 18 Normandy Drive.

The caravan would measures 9.8 metres in length and 4 metres in width. It would have an internal height of up to 3.05 metres.

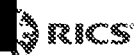
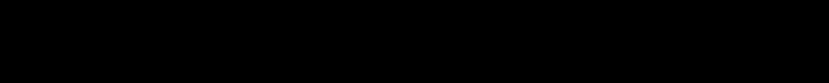
Assessment

Applications for Lawful Development Certificates for proposed development are submitted to determine whether or not a proposal requires planning permission. It does not involve any assessment of the planning merits of a proposal, but merely a legal interpretation of the planning legislation.

There are three legal tests that need to be assessed in relation to this application:

- Does the proposal constitute operational development?
- Does the proposal constitute a material change of use of the land? and;
- Is the use of the proposal ancillary to the use of the main dwelling and therefore not creating a separate planning unit?

Henry Adams LLP Rowan House, Baffins Lane, Chichester, West Sussex PO19 1UA



Does the proposal constitute operational development?

It is necessary to establish whether the proposal constitutes a 'building operation'. 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.'

The above definition relates to any structure and is not limited to what might be thought of as a caravan. There is no description of the materials for such a structure and there is no requirement for such a structure to have wheels for movement and transportation, as the definition includes transportation on a motor vehicle.

Section 13 (1) of the Caravan Sites Act 1968 (The 1968 Act), deals with twin unit caravans. It 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'.

The definition relates to a structure and there is no description as to what that structure should look like. Neither is there any requirement that the structure can only comprise one with wheels.

Section 13(2) of the 1968 Act (amended October 2006) prescribes the following maximum dimensions for 'twin unit caravans':

- a) Length (exclusive on any drawbar); 20 metres;*
- b) Width: 6.8 metres;*
- c) Overall height of living accommodation (measures internally from the floor at the lowest level to the ceiling at the highest level); 3.05 metres.*

Wyre Forest DC v Secretary of State for the Environment [1990] 2 A.C. 357, decided that if something falls within the statutory definition of a 'caravan' as provided by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, it cannot also be a 'building', because of its element of mobility.

The caravan would have a length of up to 9.8 metres and a width of 4 metres. It is therefore within the tolerances of Section 13(2) of the 1968 Act. It would be composed of not more than two sections which, would be assembled and fixed together with bolts. It would not be fixed to the ground and would therefore be physically capable of being moved by road from one place or another.

The proposal therefore falls within the statutory definition of a 'caravan' in accordance with the Caravan Sites and Control of Development Act 1960 & the Caravan Sites Act 1968.

The next consideration is whether the structure can be defined as a building for planning purposes.

The matter of whether a structure constitutes operational development requiring planning permission is based on the first element of the definition provided in S.55 of the Town and Country Planning Act 1990 (as amended) namely 'the carrying out of building, engineering, mining or other operations in, over or under land'.

In concluding whether a structure should be treated as a building, the threefold tests of (i) size; (ii) permanence and (iii) a degree of physical attachment, as originally set out in Cardiff Rating Authority v Guest Keen Baldwin's Iron & Steel Co Ltd (1949), established by the cases of Cheshire County Council v Woodward (1962) and Barvis v Secretary of State (1971) and refined by Skerritts of Nottingham Limited v SSETR (2000), are applied.

This point is also clear in the 1998 case of Measor v. Secretary of State for the Environment, Transport and the Regions. The case was decided in the Queen's Bench Division of the High Court and is thus binding on planning inspectors in England. In this case, the Judge stated:

'In my judgment, it would conflict with the purpose of the Act and common sense to treat mobile caravans as 'buildings' as of right. While I would be wary of holding that, as a matter of law, a 'structure' that satisfied the definition of, for example, a Mobile home under s.13(1) of the 1968 Act could never be a building for the purpose of the [Town and Country Planning] Act 1990, it seems to me that Éby reference to the definitions in the [Caravan Site and Control of Development] Act 1960 and the 1968 [Caravan Sites] Act it is clear that in the present case the caravans lacked that degree of permanence and attachment to constitute buildings'

The Measor principle has been restated and approved in a number of cases since 1998, such as Massingham v Secretary of State for Local Government and the Regions (2002). In light of the above, it can be concluded that where a caravan lacks the degree of permanence and attachment, it cannot be defined as being a building.

The proposed structure would not have wheels and would not be fixed to the ground. As such, the caravan is capable of removal from the site in two pieces. It is important to note that appeal decisions have established that the removal of a caravan can take place via a winch or crane.

In light of the above, the Council can be satisfied that the caravan does not constitute operational development as defined under Section 55 of the Act.

Does the proposal constitute a material change of use of the land?

The existing use of the planning unit at 18 Normandy Drive is residential and the caravan is to be sited in the rear garden of the existing property.

The plans show that the caravan would be located within the residential curtilage afforded to 18 Normandy Drive. The caravan would be used solely as ancillary accommodation to 18 Normandy Drive and would form a residential use.

Is the use of the caravan 'ancillary' to the use of the main dwelling and therefore not creating a separate planning unit?

It is an established principal in planning case law that additional living accommodation can be ancillary to a principal dwelling even if capable of semi-independent occupation. Uttlesford District Council v Secretary of State for the Environment and White (1992) held that the conversion of a garage in a residential curtilage to a granny annexe had not resulted in a material change of use, despite it including facilities that enabled the occupier to live independently. All services would be taken via the existing dwelling.

Furthermore, Uttlesford D.C. v SSE and White (1992) also established that it is not necessary for a relative of the occupier of the main dwelling to rely upon facilities in the main dwelling house in order to maintain additional living accommodation in the same planning unit.

Whilst it is therefore acknowledged that the level of facilities within the caravan could allow the occupant to live independently from the main dwelling, the general approach of the Courts is that it is the actual use of a caravan that is determinative, rather than its potential to be occupied as a self-contained residential unit.

Given the extent of what is allowed within the scope of the term 'ancillary' it is submitted that in using the caravan as an extended part of the main dwellinghouse, to provide a separate living space for the applicant's mother in law, it will remain ancillary.

Furthermore, given the use and the location, it is submitted that there would be a strong physical and functional relationship between the main dwelling and the caravan.

Conclusions

In light of the above, the caravan would meet the definition of a caravan as defined by both the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. The siting of the caravan would not amount to operational development or a material change of use of land within the meaning of S.55 of the Town and Country Planning Act.

The siting of the proposed caravan sought would not require planning permission as it would not constitute development under the terms of section 55 (1) of the Town and Country Planning Act 1990 (as amended).

It is requested that the Council confirm as such in response to this submission.

I hope that the submission is in order and I will look forward to receiving confirmation that the application is valid, however, should you require any further information; please do contact me on the number above.

Kind regards,



Peter Cleveland MRTPI
Partner, Head of Planning
Henry Adams LLP