

11 MAY 2017



**Elmbridge**  
Borough Council

... bridging the communities ...

**APPROVAL**

Application No: 2017/0243

Type: Lawful Development Cert - Proposed

Ms Kim Blunt  
Southern Planning Practice Ltd  
Youngs Yard  
Churchfields  
Twyford  
Winchester  
SO21 1NN

**ELMBRIDGE BOROUGH COUNCIL**

**CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT**

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 192 (as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010

The **ELMBRIDGE BOROUGH COUNCIL** of Civic Centre, High Street, Esher, Surrey KT10 9SD, as the local planning authority, **hereby certify** that on 23 January 2017, the proposed use or development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate is lawful within the meaning of section 192 of The Town and Country Planning Act 1990 for the following reasons:

The stationing of the mobile home within the curtilage of a dwellinghouse does not, as a matter of fact and degree, constitute development because:

- 1) The mobile home would fall within the definition of a caravan under the Caravan Sites & Control of Development Act 1960, section 29(1) and Caravan Sites Act 1986, Section 13(1);
- 2) The mobile home would be stationed within the curtilage of the dwellinghouse;
- 3) The mobile home would be being manufactured and delivered to the Land on a lorry. Its construction means that it would be sufficient for it to be lifted into and out of position again, either as a single unit or in two sections without it breaking up. It would be capable of removal and it is intended to remove it from the land when no longer required. It could be removed by a single motor vehicle or trailer and/or crane and therefore meets the mobility test;
- 4) The mobile home would not be permanently affixed to the ground. It would be stationed directly onto padstones and secured by metal shoes. A skirt would be added to the unit for aesthetic purposes only and would not be fixed to the ground;
- 5) Utility services for the mobile home would be connected and shared with the existing dwellinghouse and would be jointly billed;
- 6) The mobile home would not have a separate postal address from the dwellinghouse.

The proposed use of this mobile home as a "granny annex" would not, as a matter of fact and degree, constitute a material change of use due to the following proposals:

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- 7) No sub-division of the planning unit is being proposed;
- 8) The use of the mobile home is for the elderly parent for her living accommodation while the family will be living in the dwellinghouse. The elderly parent is finding it harder to manage the stairs in the dwellinghouse and is experiencing reducing mobility and declining health;
- 9) The proposal would enable the family to live together as a single-family unit for support and companionship and to provide the elderly parent with a degree of privacy and her own space to retreat to when needed and for a better level of support;
- 10) It is proposed that the elderly parent's daughter and son-in-law would be able to provide the elderly parent with support for day to day living needs and to care for her as might be required in future.
- 11) It is proposed that the elderly parent and the family would share the garden, the "outside amenity space", and she would share meals and laundry facilities with the family living in the dwellinghouse;
- 12) It is proposed that the elderly parent would spend every day in the dwellinghouse and the family would be able to spend time every day with the elderly parent for socialising and to provide practical support daily, e.g. to assist with bathing, managing her medication and for reassurance;
- 13) Although a kitchen is proposed in the mobile home, it is for the purposes of preparing light snacks and refreshments or to reheat food brought to her if she is not well enough to leave the mobile home, or when she prefers not to leave the comfort and security of the mobile home during the hours of darkness and/or cold and inclement weather.
- 14) A bathroom containing a lavatory, shower and sink is proposed for the purposes of the daughter being able to assist the elderly parent to bath.
- 15) It is proposed that the accommodation and facilities provided by the mobile home, while basic, would allow for increased flexibility of use by the elderly parent and her family occupying the single planning unit and result in a strong functional relationship between the mobile home and the dwellinghouse.
- 16) There is a relationship between the use of the mobile home and the dwellinghouse and the proposed use of the mobile home is ancillary to the primary use of the dwellinghouse.
- 17) It is proposed that the use of the mobile home is for a purpose incidental to the enjoyment of this dwellinghouse. The elderly parent is looking forward to her family coming to live with her so that they can live together as a single-family unit. The intention of the mobile home is to provide the elderly parent with a degree of privacy while enjoying all that the dwellinghouse has to offer. The proposal would also avoid the elderly parent experiencing feelings of loneliness and isolation. Conversely the family members in the dwellinghouse will be able to provide her with the level of support and care that she might require in relation to her declining health.
- 18) The proposed mobile home with a bedroom, bathroom, kitchen, and lounge would provide normal basic domestic living accommodation of a dwellinghouse which would not normally be expected to be regarded as "incidental to the enjoyment of a dwellinghouse". This is because such living accommodation are generally an integral part of the original residential use as a dwellinghouse. However, what is being proposed in this instance can reasonably be regarded, as a matter of fact and degree, incidental to the enjoyment of the dwellinghouse due to the proposals outlined herein this certificate.

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### First Schedule

The proposed stationing of the mobile home and the use of the mobile home within the curtilage of the dwellinghouse by the elderly parent for the specific purposes outlined in the reasons which are ancillary and incidental to the enjoyment of the dwellinghouse.

### Second Schedule

Land at 17 Island Farm Road, West Molesey, Surrey KT8 2LJ ("the Land"), shown edged in a red line on the Plan annexed hereto.

Dated 9/5/17

Signature [Signature]  
Head of Planning Services  
Elmbridge Borough Council

Development  
Manager

### **Notes**

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended (the 1990 Act).
2. It certifies that the matter specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, therefore, would not have been liable for enforcement action under section 172 of the 190 Act on that date.
3. This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.
5. Section 194 of the 1990 Act provides that it is an offence to make a false or misleading statement, use false or misleading documentation, or, withhold any material information in order to obtain a certificate. Committing an offence can result in a fine on summary conviction, or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
6. Section 193(7) enables the council to revoke, at any time, a certificate they may have issued as a result of such false or misleading information or as a result of withholding material information. Revocation of a certificate may make the owner or occupier liable to immediate enforcement action. No compensation is payable in the event of revocation. The decision to revoke a certificate is entirely for a local planning authority, even when the certificate has been granted by the Secretary of State. There is no right of appeal against a revocation but a decision could be challenged in the High Court in judicial review proceedings.

### **Appeals to the Secretary of State:**

1. You may appeal to the Secretary of State under section 195 of the 1990 Act if the following applies:
  - your application for a Certificate of Lawfulness is refused, or refused in part, on the terms sought or

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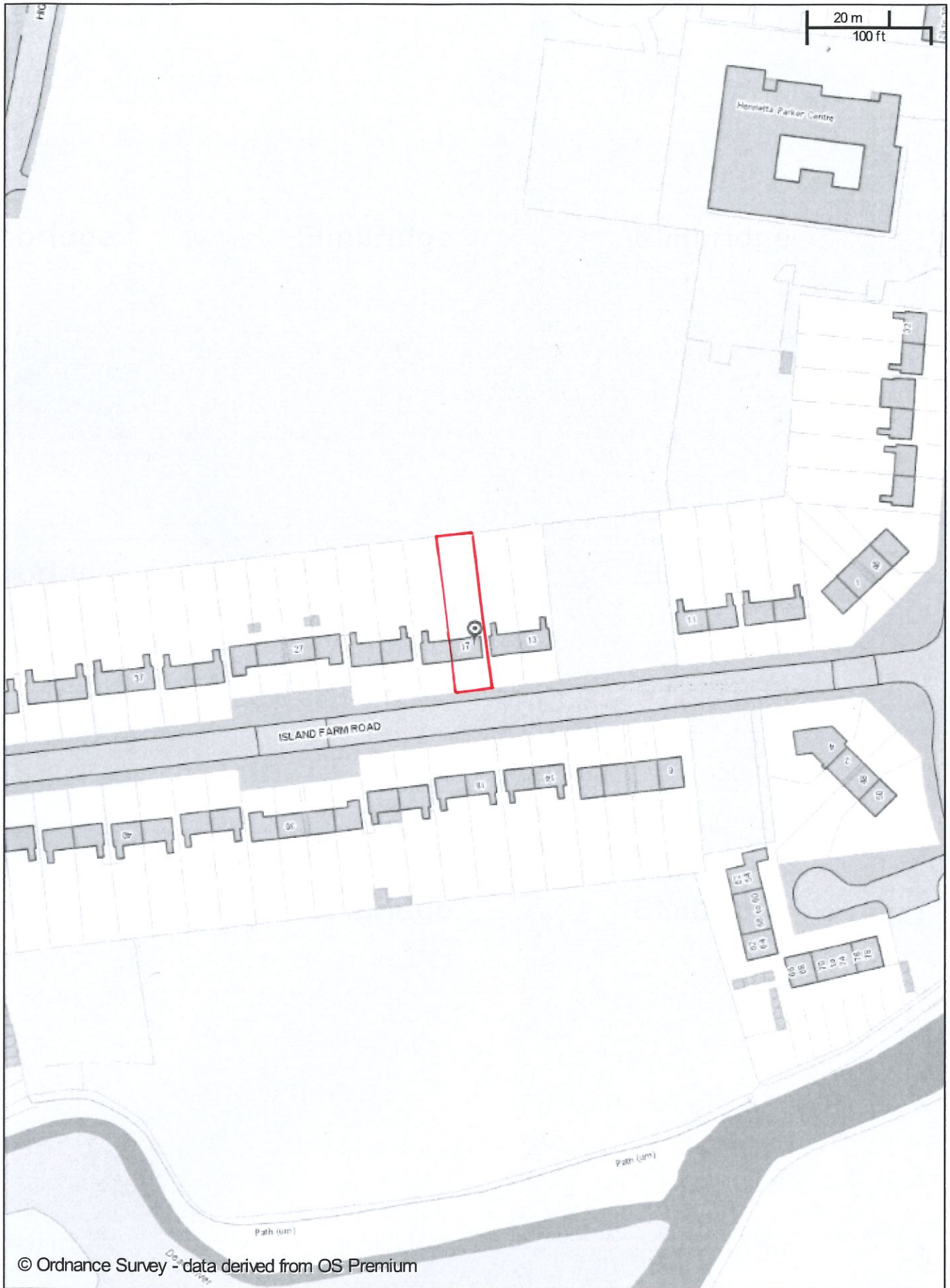
- the authority did not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
2. If you want to appeal, then you can do it: -
- On-line at the Planning Casework Service area of the Planning Portal ( <http://www.planningportal.gov.uk/pcs> ); or
  - by getting the appeal forms by phoning the Planning Inspectorate on 0303 444 5000 or by emailing them at: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)
3. There is no time limit for making an appeal in relation to section 191 and section 192 applications. It is however recommended that you do so **within 6 months** from the date of this refusal to grant a certificate, in whole or in part, on the terms sought.
4. The Secretary of State need not consider an appeal if it appears to him that the local planning authority could not reasonably have issued a Certificate of Lawful Use or Development or could not have issued on the terms sought by the applicant.
5. The contact details of the Planning Inspectorate:
- The Planning Inspectorate, Customer Support Team, Room 3/13, Temple Quay House, 2 The Square, Bristol, BS1 6PN

Telephone: 0303 444 5000

Fax: 0117 372 8782

Email: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)





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