

Planning Statement to accompany a Lawful Development Certificate application for the siting of a mobile home to be used as ancillary accommodation at Loft Hall Farm, Brentwood Road, Orsett, Grays, Thurrock, RM16 3BD



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Date: 07/05/21

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## Introduction

This planning statement accompanies an application for a Lawful Development Certificate for the siting of a mobile home to be used as ancillary residential accommodation at Loft Hall Farm, Brentwood Road, Orsett, Grays, Thurrock, RM16 3BD.

Planning Direct has been instructed to produce this statement on behalf of Miss Webb and Mr Wren, the applicants.

The statement should be read in conjunction with the following documentation:

- Site location plan
- Mobile home specification information – Appendix A
- Relevant case law and planning information- Appendix B-E
- Witness statement – Appendix F

This application has been submitted pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended).

## Location & Site Description

The application site is located at Loft Hall Farm, a large residential plot located in a rural area within the boundaries of Thurrock.

Central to the plot is the host dwelling, and surrounding this, a number of outbuildings and a mobile home for Miss Webb's parents.

The driveway, at the front of the plot, is located at the east of the site, and access to site is obtained via Brentwood Road (A128).

The site is not located in an AONB, green belt or conservation area.

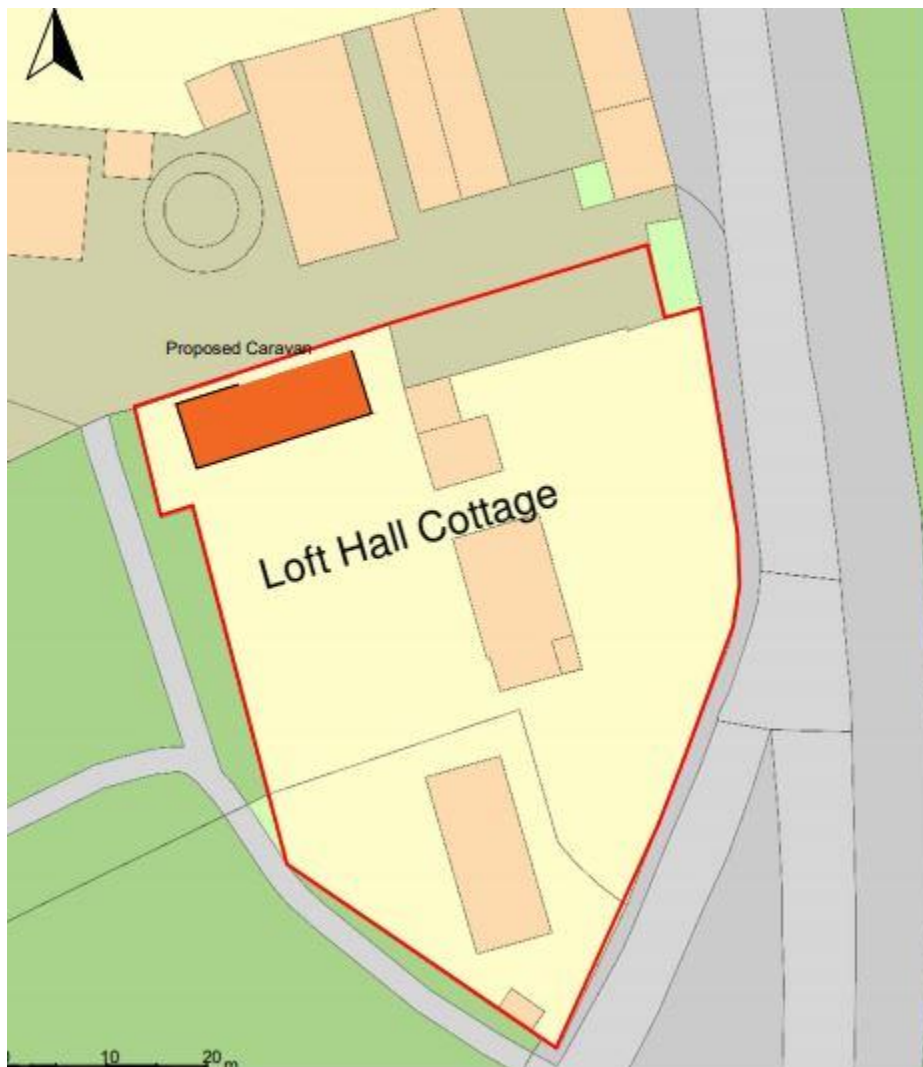
## Planning History

Planning Reference	Description	Decision	Date
16/00951/CLOPUD	Proposed siting of mobile home within curtilage of property for living accommodation.	Approved	22.11.16
12/00550/FUL	Retention of menage and floodlighting	Approved	28.07.12
12/00016/CLEUD	Certificate of lawfulness for the use of land for grazing and exercising of horses	Approved	02.03.12
11/00862/CLEUD	Certificate of lawfulness for the use of land for grazing of horses, with manège and enclosure	Refused	16.12.11
06/00692/LDC	Use of the land for car boot sales for 28 days a year	Refused	22.08.06
06/00239/LDC	Use of the land for car boot sales for 28 days a year	Refused	03.05.06
86/00087/FUL	Side lounge, extension and store	Approved	28.04.86
78/01388/FUL	Removal of mobile home, erect house and garage	Approved	15.05.79
78/01069/FUL	Renewal of THU/477/77	Approved	12.01.79
77/00477/FUL	Mobile Home	Approved	06.10.77
76/01104/FUL	House	Refused	04.05.77

## Proposed mobile home specifications

This application is for a Lawful Development Certificate for the siting of a mobile home at Loft Hall Farm. This is to be used as ancillary residential accommodation.

The proposed location for the mobile home is marked on the block plan.



The specifications for the proposed mobile home is as follows:

- Length (exclusive of any drawbar) – 18.2m
- Width – 6.7m
- Overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) – 3.0m

The mobile home will arrive on the back of a tow truck and towed into position on the application site. It will arrive as two separate sections and will be assembled on site.

The mobile home will not involve any ground works as it will not be placed on a permanent structure. Instead it will be securely suspended on wheels by a chassis.

The specification for the mobile home can be found at **Appendix A**.



## Purpose of this application

This planning statement intends to provide compelling justification that the proposed mobile home, in question, complies with the statutory definition of a “caravan” and that no development of the land will occur. Accordingly, the siting and ancillary residential occupation of the caravan comprises a lawful activity for which no planning permission is required.

Therefore, as no development will occur, the applicant is seeking the appropriate regularising course of action, which is applying for a Lawful Development Certificate.

This will be discussed further in the forthcoming commentary section.

# Policy and Legislation

## **Caravan Sites and Control of Development Act 1960**

### Part I

#### 29 Interpretation of Part I.

(1) In this Part of the Act, unless the context otherwise requires –

“caravan” means 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 -

(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or

(b) any tent.

## **Caravan Sites Act 1968**

### Part III

#### 13 Twin-unit caravans

(1) 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 Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely –

(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).

# Commentary

Two pivotal arguments/points will be focused on in this commentary:

1. The mobile home will be sited on land within the curtilage of a dwelling, and complies with the statutory definition of a caravan in every respect, and therefore, no operational development will take place; and

2. The mobile home would be used for purposes ancillary to the dwelling house and there would be no material change of use of the planning unit or land. Although the structure contains all of the essential facilities for day-to-day living (as is usual for a mobile home), it retains strong functional ties with its host dwelling. The mobile home shares an access (both vehicular and pedestrian), driveway and garden with the host dwelling, along with its doorbell, services, utilities and council tax. The proposed mobile home will be occupied by close family members of Miss Webb, the owner of the host dwelling. The occupiers will be Miss Webb's son, Mr Wren, and his family. Therefore, the use of the site, in its entirety, remains for single-family occupation.

## **1. Compliance with the statutory definition of a caravan**

The statutory definition of a caravan is set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. Relevant extracts of these Acts are included in the policy and legislation section above.

Ultimately, there are three key statutory tests - (1) size, (2) mobility and (3) construction - which a structure must meet in order to be deemed a caravan. The current structure's clear accordance with the various statutory requirements is set out below.

## **Construction**

- *A caravan comprises of “any structure designed or adapted for human habitation”*

In this instance, the mobile home will be designed and constructed for human habitation.

- *A caravan 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 mobile home will not comprise of either of the above structures.

- *A caravan 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”*

The mobile home will be formed of two separate sections only and the two sections will be assembled on site with bolts and other associated devices.

## **Mobility**

- *A caravan is “when assembled, physically capable of being moved, including by road, from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)”*

The mobile home will be assembled on site. When fully assembled it has the potential to be moved, as it is, and within a short period of time. If required, the mobile home could be moved from the site within half a day. The base of the mobile home sits, securely, on wheels, and is easily towable onto a flatbed lorry.

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

As per the above, the mobile home in question is physically capable of being moved along a highway, fully intact, by a flatbed lorry.

### **Size**

- A caravan does not include any structure “whose dimensions when assembled exceed any of the following limits: length (exclusive of any drawbar) of 20 metres, width of 6.8 metres. Overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) of 3.05 metres.”

The proposed mobile home has the following, compliant, dimensions:

- Length of mobile home = 18.2 metres
- Width of mobile home = 6.7 metres; and
- Overall height of mobile home (measured internally from the floor at the lowest level to the ceiling at the highest level) = 3.0m

It is clear, therefore, that the caravan meets the three key statutory tests, namely (1) size, (2) mobility and (3) construction.

### **Supporting case law**

It is considered that the below case law adds material weight to the above arguments.

APP/X0415/X/17/3174735, Trenear, 29 The Lagger, Chalfont St Giles, Buckinghamshire

HP8 4DH, “stationing of a temporary mobile home within the residential curtilage of a dwelling, for purposes ancillary to the main use of the host dwellinghouse”, dismissed 15/11/2017 (full decision letter at **Appendix B**)

*“16. A building is defined by s336 of the Town and Country Planning Act 1990 (the Act) as including any structure or erection and any part of a building, but not plant or machinery comprised within a building. Case law has determined three primary factors were identified as decisive of what was a building (a) that it was of a size to be constructed on site, as opposed to being brought on to the site, (b) permanence, (c) physical attachment. No one factor is decisive.”*

**Relevance to the current application: in terms of the primary factors identified above:**

- (a) The structure is inherently removable and transportable and, once lifted from its plot, will leave no trace of its former presence on the land; and
- (b) The structure is not physically attached to the land in any way.

The mobile home will be on wheels, which forms a certainty that it is not a building for the purposes of the Town and Country Planning Act 1990.

APP/L5810/X/15/3140569, 27 Elmfield Avenue, Teddington TW11 8BU, “the use of land within the curtilage of the dwelling for the stationing of a mobile home to be occupied ancillary to the main house”, allowed 26/05/2016 (full decision letter at **Appendix C**)

*“17. I note that the proposed unit would rest on concrete “pad stones” placed on the ground. As such, the unit’s degree of physical attachment to the ground and the effect on mobility would be minimal or non-existent. Similarly, any attachment to services is not the same as physical attachment to the land, as invariably disconnection from such services is a simple matter which can be achieved within minutes, in the event that the*

*mobile home needs to be moved. The mobile home would not acquire the degree of permanence and attachment required of buildings. The mobility test would be met.”*

**Relevance to the current application:** Similarly to in the above case, the proposed mobile home will be a temporary structure and the degree of attachment to the ground is based solely on the wheels placed there to hold the mobile home in place. The above paragraph also confirms that attachment to services is not the same as physical attachment to the land. Similarly to the above case, the mobility test would therefore be met.

*“18. I consider that what is being proposed meets the definition of a caravan. As the appellants say, it is settled law that stationing a caravan on land, even for prolonged periods, is a use of land rather than operational development. This principle is embedded in the legislative framework, endorsed by case law and routinely applied by the Planning Inspectorate. Thus, the limitations in the General Permitted Development Order that apply to the erection of buildings in the curtilage of a dwellinghouse have no relevance to this case.”*

**Relevance to the current application:** This paragraph of the appeal statement confirms that the siting of a caravan on land does not comprise of the erection of a building or other operational development.

*Terence Charles Measor v The Secretary of State for the Environment, Transport and the Regions and Another [1998] EWCA Civ J0806-4*

In this high court case the judge stated that;

*“In my judgement, 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 Eby 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 the degree of permanence and attachment to constitute buildings.”*

**Relevance to the current application:** This high court judgement confirms that any mobile home that meets the relevant Caravan Act criteria cannot be defined as operational development. This is the case for this proposed application, as the mobile home lacks permanence and can be moved with ease.

## **2. Use for purposes incidental to the enjoyment of the dwellinghouse**

The proposed mobile home contains many of the facilities necessary for independent, day-to-day living. However, in order to comply with the statutory definition of a caravan, a structure must be designed or adapted for human habitation. In order to be suitable for human habitation, the structure must provide living space, a kitchen, bathroom utilities and sleeping quarters, as a minimum.

The siting of a “caravan” within the curtilage of an existing dwelling does not have the intrinsic effect of creating a new, independent dwellinghouse, as supported by a wealth of case law. It is relevant, instead, to consider the particular use of the structure, as set out in the application. This is as follows:

The family members that are proposed to live in the mobile home would still regularly use the main house for socialising and some daily chores like laundry.

The mobile home and the main dwelling would share a strong functional relationship, including the following aspects:

- i. A shared site access, both vehicular and pedestrian;
- ii. A shared parking area;
- iii. A shared front doorbell;
- iv. A shared postal address and post box;
- v. Shared bills and council tax;
- vi. Shared facilities including laundry;
- vii. A shared garden.

In short, the mobile home would not be able to function fully without the main dwelling. Therefore, it is not classed as a separate dwelling and cannot be classed as a material change of use of the land.

### **Supporting case law**

It is considered that the below case law adds material weight to the above arguments.

APP/X0415/X/17/3174735, Trenear, 29 The Lagger, Chalfont St Giles, Buckinghamshire HP8 4DH, “stationing of a temporary mobile home within the residential curtilage of a dwelling, for purposes ancillary to the main use of the host dwellinghouse”, dismissed 15/11/2017 (full decision letter at **Appendix B**)

*“20. The structure would contain all of the facilities required for day to day living. However, that, of itself, does not dictate that the use would amount to the creation of separate dwellinghouse and an independent unit of occupation. I understand that the occupant would be a family member related to those living in the adjacent house; that meals would regularly be taken in the existing dwellinghouse; that all laundry would be undertaken in the existing house; that services would run to the unit from the existing house; that no separate postal address would be created; and that the access and garden spaces would be shared.”*

*“21. In those circumstances I am satisfied that the unit would, in effect, provide for an extension to the primary living space of the existing dwelling and would not involve the creation of an independent unit of occupation.”*

**Relevance to the current application:** The first paragraph confirms that the inclusion of all facilities required for day to day living does not, in and of itself, dictate that a structure is tantamount to the creation of a separate dwelling.

The above case also possesses clear similarities with the current - that the occupant of the structure is a close family member of the main house’s occupants, that various daily activities (including all laundry) must necessarily be undertaken in the main house, that services are run to the caravan from the main house, that no separate postal address has been created and that access and garden spaces are shared.

In the above case, these circumstances led the inspector to conclude that the structure in question was ancillary to the main dwelling. It is strongly considered, on the basis of the noted similarities, that a similar conclusion deserves to be reached in this instance.

APP/C1570/X/19/3221569, The Bothy, Keeres Green, Aythorpe Roding CM6 1PQ, “use of the mobile home in conjunction with the host dwelling The Bothy”, allowed 16/06/2020 (full decision letter at **Appendix D**)

*“21. Whilst the mobile home contains all the necessary fixtures and fittings for independent living and its position relative to The Bothy provides for an element of physical segregation from it, it is established case law that even if a caravan or outbuilding contains the accommodation to enable independent living, provided that there is a clear functional link between the house and the outbuilding/caravan, then it is a matter of fact and degree to determine whether an additional planning unit is created.”*

*“22. In this case the evidence is clear that the mobile home is being used as a typical granny annex, and so, as a matter of fact and degree, it is incidental to the use of The Bothy.”*

*“23. If the caravan is used in the manner set out in the application, then such use would not be development under section 55(2)(d) of the Act. The application can only be assessed on the basis of the stated purpose. If some other use takes place or it is not used in association with the dwelling, then it would not benefit from the LDC.”*

**Relevance to this case:** Like this appeal, the application in question involves a close family member living in the mobile home, and although there is a degree of independence within the mobile home, there is still a clear, functional link to the house, both practically and socially. Therefore, like the above case that inspector allowed, this application ought to be approved.

The next case has very similar findings to those above.

APP/Z2830/X/13/2190381 60 Waynflete Avenue, Brackley, NN13 6AF “siting of a caravan in the rear garden of the semi-detached dwelling, No.60 Waynflete Avenue, as incidental accommodation to the main dwelling” Allowed 08/01/2014 ( full decision letter at **Appendix E**)

*“10. However, what is proposed is for the use of the caravan as ancillary sleeping accommodation for the appellant’s daughter and son-in-law and their baby. The caravan would not have laundry facilities or a fully function kitchen and would not have all the facilities necessary for day-to-day living. The occupiers would be reliant on facilities available in the main dwelling. Indeed it is stated that the occupiers would cook and eat with the appellant in the house.”*

*“11. On the basis of the described use, the siting of the caravan in the rear of the garden would be incidental to the enjoyment of the dwellinghouse. The commentary at 3B-2088.2 of the Encyclopedia of Planning Law and Practice states that the use of a caravan within the curtilage for purposes incidental to the enjoyment of the dwellinghouse falls within the primary use of the dwellinghouse, and does not require separate planning permission. This use is therefore not included in those for which permission is granted by Class A of Part 5 of Schedule 2 of GPDO.”*

**Relevance to case:** Like the above case, the current application involves a close family member using the mobile home as accommodation and they will be reliant on the main house for certain facilities and social activities.

## Conclusion

It is the professional opinion of Planning Direct, based on the information provided by the applicant and also the research undertaken, that this application constitutes for exemption from a full planning application for the following reasons:

The mobile home sited on land within the curtilage of a dwelling complies with the statutory definition of a caravan in every respect, such that no operational development has taken place.

That as the mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse, as such, there would be no material change of use of the planning unit or land. Although the structure contains all of the essential facilities for day-to-day living (as is usual for a mobile home), it retains strong functional ties with its host dwelling. The mobile home will share an access (both vehicular and pedestrian), driveway and garden with the host dwelling, along with its doorbell, services, utilities and council tax. The mobile home will be occupied by close family members of the host dwelling, Miss Webb's son, Mr Wren and his family, meaning the use of the site, in its entirety, remains for single-family occupation.

It is for those reasons, and the evidence provided, that we respectfully ask that a Lawful Development Certificate is granted.