

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL Select an Option

1.	No valid planning application objection in the form of a petition of 20 or more signatures, has been received	<input type="checkbox"/>
2.	Application complies with all relevant planning policies and is acceptable on planning grounds	<input type="checkbox"/>
3.	There is no Committee resolution for the enforcement action	<input type="checkbox"/>
4.	There is no effect on listed buildings or their settings	<input type="checkbox"/>
5.	The site is not in the Green Belt (but see 11 below)	<input type="checkbox"/>

REFUSAL RECOMMENDED: GENERAL

6.	Application is contrary to relevant planning policies/standards	<input type="checkbox"/>
7.	No petition of 20 or more signatures has been received	<input type="checkbox"/>
8.	Application has not been supported independently by a person/s	<input type="checkbox"/>
9.	The site is not in Green Belt (but see 11 below)	<input type="checkbox"/>

RESIDENTIAL DEVELOPMENT

10.	Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha	<input type="checkbox"/>
11.	Householder application in the Green Belt	<input type="checkbox"/>

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12.	Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses	<input type="checkbox"/>
13.	Refusal of change of use from retail class A1 to any other use	<input type="checkbox"/>
14.	Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	<input type="checkbox"/>

CERTIFICATE OF LAWFULNESS

15.	Certificate of Lawfulness (for proposed use or Development)	<input type="checkbox"/>
16.	Certificate of Lawfulness (for existing use or Development)	<input type="checkbox"/>
17.	Certificate of Appropriate Alternative Development	<input type="checkbox"/>

CERTIFICATE OF LAWFULNESS

18.	ADVERTISEMENT CONSENT (excluding Hoardings)	<input type="checkbox"/>
19.	PRIOR APPROVAL APPLICATION	<input type="checkbox"/>
20.	OUT-OF-BOROUGH OBSERVATIONS	<input type="checkbox"/>
21.	CIRCULAR 18/84 APPLICATION	<input type="checkbox"/>
22.	CORPSEWOOD COVENANT APPLICATION	<input type="checkbox"/>
23.	APPROVAL OF DETAILS	<input type="checkbox"/>
24.	ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval	<input type="checkbox"/>
25.	WORKS TO TREES	<input type="checkbox"/>
26.	OTHER (please specify)	<input type="checkbox"/>

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

Report of the Head of Development Management and Building Control

Address: 12 MORFORD WAY EASTCOTE

Development: Installation of a mobile home within rear garden (Application for a Certificate of Lawful Development for a Proposed Development)

LBH Ref Nos: 70021/APP/2024/293

Drawing Nos: 240109/P01
240109/P02
240109/P03
240109/P04
240109/P05
240109/P06
Covering Letter
Mobile Home Statement 29-01-2024

Date Plans received: 05-02-24 **Date(s) of Amendments(s):**

Date Application valid 05-02-24

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the proposed development described above in respect of the land edged red on the attached plans for the following reasons:

With regards to the mobility of the fully assembled unit and the construction methodology provided, the information submitted is considered to be insufficient to conclude definitively that it would accord with the necessary requirements. As such, the proposal would not fall within the definition of a caravan as set out within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 (as amended). The proposal would involve building operation and would therefore fail the construction and mobility tests.

It is also considered that the erection of the caravan would result in 'development' as defined within Section 55 of the Town and Country Planning Act 1990 as the proposal would involve the creation of a unit capable of use as a self contained unit independent from the main dwelling, resulting in a material change of use of the site.

The proposal would also fail to comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as it would exceed the specified maximum height for an outbuilding and would also not be considered to be for

a purpose incidental to the enjoyment of the dwellinghouse

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 Planning Considerations

The Council considers that the overarching test applicable is whether the proposal constitutes "development" as defined by Section 55 of the Town and Country Planning Act 1990.

"Development," means 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. The two main questions that must be assessed are:

- 1) Whether the proposal is for the siting of a caravan (and therefore the use of land) rather than a building (which would constitute operational development), and;
- 2) Whether the proposal would result in a material change in use.

1) Whether the proposal is for the siting of a caravan (and therefore the use of land) rather than a building (which would constitute operational development)?

The definition of a caravan is provided in section 29(1) of the Caravan Sites and Control of Development Act 1960. This reads as follows:

"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;"

This definition has been supplemented by Section 13(1) of the Caravan Sites Act 1968, which deals with twin-unit caravans. This defines twin-unit caravans as:

"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 when assembled."

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

-Length (exclusive of any drawbar): 20 metres;

-Width: 6.8 metres;

-Overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level) 3.05 metres

Based on established case law, the Council is of the opinion that if the "caravan" does not meet the statutory definitions set out in the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 Act (as amended), this provides a basis to refuse the application for a Lawful Development Certificate for a proposed use or development. This means that if the caravan fails to meet (i) the size limitations, (ii) the construction requirement or (iii) the mobility requirement, the proposal will not constitute a use of land.

In *Measor v SSETR JPL 182* the Court stated that it would be wary of holding, as a matter of law, that a structure which satisfies the definition under the Caravan Sites Act 1968 Act could never be a building. There may be cases in which the tests above are met, but due to the proposal's size, permanence or physical attachment, the proposal constitutes a building. This would provide a further basis on which to refuse the Certificate of Lawfulness for Proposed Use or Development.

ASSESSMENT:

i) Whether the proposal would comply with the size limitations set out by the Caravan Sites Act 1968 (as amended)?

It is acknowledged that the dimensions of the proposed unit (as shown on the submitted drawings) would comply with Section 13(2) of the Caravan Sites Act 1968 (as amended).

ii) Whether the proposal would involve a building operation (the construction test)?

The submitted Planning Statement states that the "this unit is one of our single unit designs and our options for the installation of this unit are as follows". The Planning Statement proposes two installation options for the unit as follows:

- Installation Option 1 - Both bays are assembled and delivered to site as two separate sections. These sections can be craned into the rear garden with the final act of assembly being bolted the two units together. Single unit can be craned in as one piece.

- Installation Option 2: Unit is delivered in sectional form and assembled on site. The Planning Statement refers to the allowed Appeal Decision at West Devon Borough Council (Appeal Ref: APP/Q1153/C/08/2064995) where the unit was delivered in sectional form and assembled on site. The benefit of this method, on this particular site, is to minimize the disturbance and impact to the neighbours that installation 1 would cause as we would require a temporary road closure to Morford Way while the unit is craned in. Also this method is a more cost effective route to achieving compliance.

On the basis of the evidence submitted, it is clear that there are two installation options for the proposed unit. No additional evidence has been submitted detailing the practicalities of these methods or the details of the process used. There is no evidence to support the feasibility of craning the unit into the rear garden from Morford Way over the dwelling at 12 Morford Way or of craning the unit into the rear garden from Morford Close over two residential gardens. There is doubt that either of these methods would be practical or feasible. It is considered that additional information

would be required with regards to the selected installation option.

It is noted that Installation Option 2 would not be considered to comply with Section 13(1) of the Caravan Sites Act 1968. As stated in the submitted Caravan Statement, Installation Option 2 would involve 'the unit being delivered in sectional form and assembled on site'. This method would not be considered to comply with Section 13(1) of the Caravan Sites Act 1968 as it could involve the unit being brought to the site in more than two sections and then assembled on site. This would be considered to involve building works and would fail the construction test.

It is considered that the information submitted fails to sufficiently detail the proposed installation methods, and as such, the proposal could be constructed in such a method which is not compliant with the requirements. The proposal would not therefore fall within the definition of a caravan as set out within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 (as amended), would involve building operation and would fail the construction test.

iii) Whether the proposal would meet the mobility requirement?

Section 13(1) of the Caravan Sites Act 1968 states that the caravan, '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 when assembled'.

The submission states: "Your Extra Space Limited confirm that this mobile home is for use as an ancillary annexe accommodation and is constructed to be capable of being lifted and moved as a single unit. Our Your Extra Space accommodation range is engineered and constructed so that the units can be lifted, for instance: by a lorry with "crane assist" to load or unload as a single unit or twin bay unit."

Whilst it is appreciated that the unit includes anchor points for crane lifting and states that it can be moved, it is not considered that the information submitted goes no further than this and therefore fails to sufficiently demonstrate that the fully assembled unit would be capable of being moved by road from one place to another (whether by being towed, or being transported on a motor vehicle or trailer). It is considered that there is a lack of information, that the proposal would not fall within the definition of a caravan as set out within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 (as amended) and would fail to comply with the mobility requirements.

2) Whether the proposal results in a material change in use?

In *Burdle v SSE* 3 All ER 240, Lord Bridge explained that a "useful working rule" is that it should be assumed that the unit of occupation is the planning unit, unless some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally. As such, identifying whether the proposal would constitute a material change of use (and take place in a separate planning unit) requires an assessment of both the physical and function connection between the caravan or mobile home, and the main dwelling.

The application form and submitted Covering Letter states: "The proposal would provide ancillary living space for the applicants' family. It would be sited within the rear garden of 12 Morford Way, Ruislip, HA4 8SN and the existing plot would not be sub-divided as a result of the proposal. In addition, there would be a high degree of physical dependence on the main house, as the mobile home would draw its services from it. Any occupants of the proposed mobile home would therefore have a degree of dependence on the facilities within the dwelling. The use of the structure would be

ancillary to and dependent on the host dwelling, and would not represent a material intensification of the use of the land. The siting and use of the unit in this location would not, therefore, constitute a material change of use, nor the creation of a separate planning unit."

Despite this, it is considered that despite the dependence on the services of the main dwelling noted within the application form, a lack of information has been submitted to confirm specific details of this arrangement. Given the bedroom, kitchen and bathroom facilities within the unit as shown on the submitted plans, the unit could be occupied separately to the main dwelling, and would be capable of use as a self contained unit.

Based on the information submitted, the proposed unit would be capable of use as a self contained form of accommodation, and would therefore constitute the creation of a separate planning unit, and therefore would result in a material change of use, contrary to Section 55 of the Town and Country Planning Act 1990.

Assessment against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):

It should also be considered whether the proposed unit constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Notably, it should be considered whether the purpose of the outbuilding is incidental to the enjoyment of the dwellinghouse, and if so, is the outbuilding reasonably required for that purpose.

Established case law confirms that in Class E, 'required' for an incidental purpose should be interpreted as 'reasonably required'. The judgment in *Emin v Secretary of State for the Environment & Mid Sussex District Council* held that the physical size of an outbuilding, alone or in relation to a dwelling, may form part of an assessment but is not conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and evaluate whether the outbuilding is genuinely and reasonably required to accommodate the proposed use.

In this case, the unit would be 'L' shaped, and would have a maximum width of 6.80m, a depth of 9.00m and the external height of the outbuilding would be 2.80m. It has a footprint of approximately 44.50m², which would not exceed 50% of the curtilage of the main dwellinghouse. It is noted that with a maximum height of 2.80m, the proposed unit would exceed the height of an outbuilding permitted under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

It is also necessary to look at the function of the space within the outbuilding and determine whether the outbuilding is reasonably required for a purpose incidental to the enjoyment of the dwelling. In this case, the submitted plans show that the outbuilding contains a bedroom, living / dining area, bathroom and a kitchenette. Given the presence of bedroom, bathroom and kitchen facilities, it is considered that the outbuilding could be used a separate self contained form of living accommodation. As such the proposed development does not constitute permitted development, as the resulting building would not be considered to have a use that is incidental to the enjoyment of the existing dwelling house.

The proposed development is therefore contrary to Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Conclusion:

Based on the evidence that has been submitted, it is considered that the proposal would not fall within the definition of a caravan as set out within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 (as amended) as it would amount to a building operation, thus failing the construction test and would also fail the mobility test.

The proposal would also fail to comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as it would exceed the specified maximum height for an outbuilding and would also not be considered to be for a purpose incidental to the enjoyment of the dwellinghouse

The application is recommended for refusal.

3.0 Relevant Planning History

70021/APP/2014/4481 12 MORFORD WAY EASTCOTE

Part two storey, part single storey side/rear extension involving demolition of detached garage to rear

Decision Date: 18-02-15 Approved

70021/APP/2014/1812 12 MORFORD WAY EASTCOTE

Part two storey, part single storey side/rear extension involving demolition of detached garage to rear

Decision Date: 21-07-14 Refused

Comment on Planning History

4.0 ALL CLASSES

Not applicable.

Contact Officer: Becky Smith

Telephone No: 01895 250230