

DELEGATED DECISION REPORT

HPK/2023/0176
VALID 02/05/2023

42, PARK ROAD, CHAPEL-
EN-LE-FRITH,
DERBYSHIRE, SK23 0LP

CERTIFICATE OF
LAWFULNESS FOR
PROPOSED 'USE OF THE
LAND FOR SITING A MOBILE
HOME FOR USE ANCILLARY
TO THE MAIN DWELLING
(CERTIFICATE OF
LAWFULNESS – PROPOSED)

MAIN ISSUES

Whether the proposed development complies with the relevant legislation under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended; The Town and Country Planning Act 1990; The Caravan Sites and Control of Development Act 1960, and the Caravan Sites Act 1968

DESCRIPTION OF SITE

The application dwelling is a two storey semi-detached property which lies within the settlement boundary for Chapel-en-le-Frith as defined by the Local Plan policies map. The surrounding area is predominantly residential. The dwelling has parking to the front and side, with private amenity space to the rear.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed siting of a mobile home to be occupied in a manner ancillary to the main dwelling.

OFFICER COMMENTS

Background and Relevant Legislation

This certificate has been submitted under s.192 of The Town and Country Planning Act, and seeks to ascertain whether the proposed siting of a twin unit caravan would be lawful. If the Local Planning Authority has no evidence of its own, to contradict or make the version of events less probable, there is no good reason not to grant a LDC, provided the applicants evidence alone is sufficiently precise and unambiguous.

The Caravan Sites and Control of Development Act 1960, and the Caravan Sites Act 1968, set out the definition of a caravan. Schedule 13 (1) of the 1968 Act sets out the definition of 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 highway when assembled.”

The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 amends Sub-section(20 of section 13 of the Caravan Sites Act 1968, and limits their dimensions to 20m long, 6.8m wide, and 3.05 high in terms of its internal height from floor to ceiling. There is no restriction of the external height of the caravan.

There are therefore two pertinent questions, would the proposal involve operational development; and, would it amount to a use of land incidental to the primary use of the planning unit as a single dwellinghouse such that no material change of use would occur.

Assessment

Whether the proposal meets the definition of a caravan

The applicant has confirmed in writing that the caravan would comprise of two parts which would be separately constructed at the site. The final act of assembly would be the bolting together of the two independent parts. The 1968 Act, requires twin units to have no more than two parts, constructed separately, and assembled (joined) on site through bolts and clamps etc.

As the twin unit caravan is not constructed as one entity, the separate construction of each part, and the final act of assembling through joining with bolts would appear to satisfy this test. In terms of its mobility the LPA has no evidence to dispute that the unit could not be transferred by crane to a trailer for road transport could not happen and would appear to be a feasible.

The unit would clearly be designed for human habitation and would provide all the necessary accommodation to enable such habitation.

Submitted plans indicate that the resultant assembled unit would be 11.6m long, 6m wide, with a maximum internal height of 3m. This would be within the limitations set out in the amended 1968 Act. On the balance of probabilities, based on the evidence provided, it is considered that the proposal would fall within the definition of a caravan.

Whether the proposal amounts to any operational development

As outlined above, it is considered, on the balance of probabilities that the unit would amount to a caravan, by definition. While this does not definitively, as a matter of

law, mean that a building operation has not been carried out, it is nonetheless a useful indicator of whether operational development would be taking place. Nevertheless, it is necessary to consider matters such as permanence and attachment.

The submission states that the unit would be placed on a screw pile foundation system and would not be fixed to the ground, a 150mm clearance would be provided. The lack of physical attachment or affixation to any footings or hardstanding would make the structure moveable. The caravan would be attached to utilities, however the Courts have long held that connections to utilities do not have the effect of operational development as detachment from services is a simple matter which can be achieved within a matter of minutes.

While the unit could not be moved around with ease (as demonstrated above), the same would be said for any static caravan which fell within the definition of a caravan of this scale, and these are recognised in law as not amounting to buildings.

It is therefore considered, on the balance of probabilities, that the proposal would not amount to operational development. Any means of attachment to services and utilities would be *de minimus*.

Whether the proposal amounts to a material change of use of land

The first question is whether the unit would be sited on land which falls within the lawful residential curtilage of the host property. The caravan would be sited within the domestic curtilage of the dwelling. The land currently has a domestic appearance and function.

The proposals include the provision of two bedrooms, a living room/kitchen, shower room and utility. Clearly, the level of accommodation is capable of being used as a separate dwelling house. However, the question to answer is not what the accommodation might facilitate in theory, but how it is likely to be used in practice.

The submission indicates that the caravan would not be used as a separate dwelling and would be used as an annexe for the applicants mother, who requires care and support, whilst maintaining a degree of independence. There would be a clear physical and functional relationship between the main dwelling and the caravan through shared services, facilities and domestic amenities.

Therefore, notwithstanding the level of accommodation provided within the unit, the use would retain a connection with the primary dwellinghouse and not result in the creation of a separate planning unit. The use of the existing planning unit of 42 Park Road, and its grounds, would remain in domestic residential use as a single dwellinghouse.

The character of the use of the site as a whole would not change. The LPA has no evidence to substantiate any assertions that the unit would be occupied as a separate dwellinghouse or that suggested use of the unit would amount to a material change of use of the land.

Summary

On the balance of probabilities, it is considered that the proposal would be a caravan as defined by The 1960 and 1968 Acts as amended. The LPA is satisfied that the proposal would not result in operational development or the construction of a building. The proposal therefore relates to a use of land and, in this instance, there would be no material change of use of land resulting from the proposals.

Ultimately, should the actual use turn out to be materially different to that described then the position can be re-assessed and a different conclusion could be reached. Additionally, should operational development occur, which takes the development outside of the scope of a caravan, then the proposal would not be lawful.

CONCLUSIONS

The proposed siting of a twin unit mobile home as proposed would fall within the definition of a caravan. The proposals would not amount to operational development and its use for purposes incidental to the dwelling known as 42 Park Road would not result in a material change of use of land. Therefore, it is concluded that the siting of the caravan, used in the manner described, would be lawful.

OFFICER RECOMMENDATION: Grant Certificate

Case Officer: Declan Cleary

Recommendation Date: 23/06/23

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council