

SUPPORTING STATEMENT

82 Kenilworth Avenue

INTRODUCTION

This statement supports an application seeking a lawful development certificate for the siting of a caravan within the curtilage of 82 Kenilworth Avenue

This statement establishes that the caravan (referred to as 'the proposed unit') meets the definition in the Caravan Sites and Control of Development Act 1960 (as amended by the 1968 Act) and, for the following reasons, does not amount to development nor would it amount to operational development or a material change of use:

1. The proposed unit fits the definition of a caravan in terms of its design, mobility, size and construction.
2. The proposed unit would be stationed within the curtilage of the house.
3. The proposed unit would be placed on the land and would not be fixed to the ground.
4. The proposed unit would be used as ancillary space and act an integral part of the overall use of the property as a single dwelling. It would share some services, facilities and access with the house.
5. The proposed unit would not be used as a separate dwelling.
6. The proposed use would not constitute development requiring planning permission because the property would remain a single planning unit.

To further demonstrate compliance with the relevant legislation, the proposed unit is assessed against the following questions separately within this Statement:

1. Whether the proposed unit is a 'Caravan'?
2. Whether the proposed unit is within the curtilage of a dwelling?
3. Whether the development constitutes a material change of use or a separate dwelling?

1. WHETHER THE PROPOSED UNIT IS A 'CARAVAN' - THE 'CARAVAN TESTS'

The definition of a 'caravan' is established in the Caravan Sites and Control of Development Act 1960 ('CSCDA').

Section 29(1) of the CSCDA defines a 'caravan' as:

"...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..."

Section 13 (1) of the Caravan Sites Act 1968 deals with twin unit caravans and Section 13 (1) establishes 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 and other devices;

and

(b) Is, when assembled, physically capable of being moved by road from one place to another (whether being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or have been) a caravan within the means of Part 1 of the Caravan Sites Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled".

Finally, the permissible dimensions of a caravan are established by the Social Landlords (Permissible Additional Purposes) (England) Order 2006, of which Section 3 (3) provides the following limits:

"Length (exclusive of any drawbar): 18.288 metres (60 feet);

Width: 6.096 metres (20 feet);

Overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.048 metres (10 feet)."

Base on these regulations, three tests have been established to determine whether a structure constitutes a 'caravan':

1. **Mobility Test** – The caravan must be movable in one whole unit once assembled. It is not necessary for a caravan to be towed, only that it is capable of being moved by road. It is the structure that must possess the necessary qualities, not the means of access to any particular road.
2. **Size Test** – The unit must be less than 20m x 6.8m. Less than 3.05m when measured from internal floor to internal ceiling.

3. **Construction Test** - There should be two sections separately constructed. The act of joining the two sections together should be the final act of assembly. There is no requirement that the process of creating the two separate sections must take place away from the site.

If a unit passes all three tests it should be regarded as a 'caravan' under the relevant legislation.

The proposed unit will be assessed against each of the three Caravan Tests in the following sections.

MOBILITY TEST

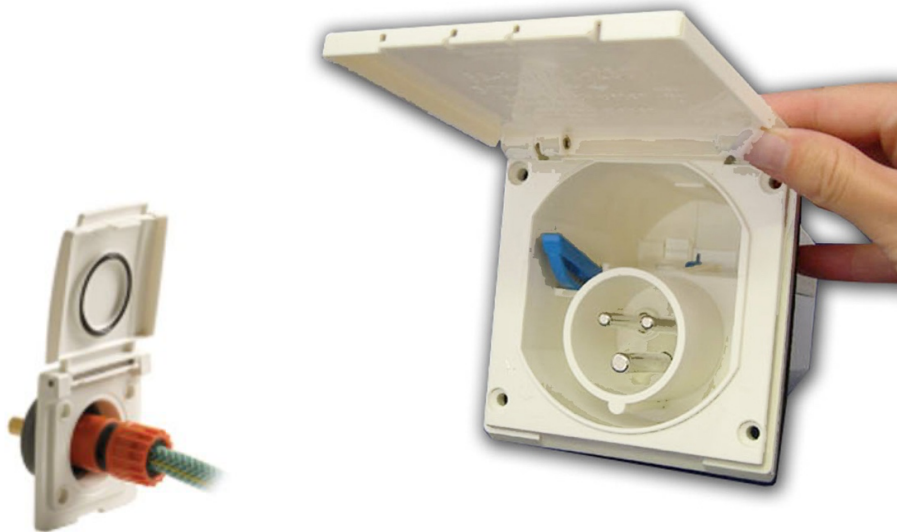
To qualify as a caravan the unit must, when assembled, be physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle trailer). It is the structure that must be mobile and not the means of access.

The caravan must be able to be moved, however, it does not have to be directly pulled by a vehicle and it does not need to have wheels. It can be craned onto a trailer and transported from one place to another.

A caravan cannot be physical attachment to the ground or to main services, however, temporary/detachable connections to services or utilities does not result in failure of the Mobility Test.



Drainage Connection



Water and electric connection points

The enclosed drawings and Structural Report demonstrate that the proposed unit passes the Mobility Test.

SIZE TEST

The unit must be less than 20m x 6.8m, when measured from wall-to-wall rather than eaves to eaves.

And, less than 3.05m, when measured from internal floor to internal ceiling.

The enclosed drawings demonstrate that the proposed unit passes the Size Test.

CONSTRUCTION TEST

For twin unit caravans, there should be two sections separately constructed and designed to be assembled on a site by means of bolts, clamps and other devices. The act of joining the two sections together should be the final act of assembly. There is no requirement that the process of creating the two separate sections must take place away from the site.

The caravan can be delivered to the site in many pieces, and there is no requirement in Section 13(1)(a) that the process of creating the two separate sections must take place away from the site on which they are joined together. It is necessary only that the act of joining the two sections together should be the final act of assembly.

On this basis, there is nothing preventing the unit from being assembled onsite from multiple pieces and this is a common approach which meets the requirements of the Construction Test.

‘Caravan Tests’ Summary

It is demonstrated above that the proposed unit passes the three ‘Caravan Tests’ and is therefore regarded as a 'caravan' under the relevant legislation.

2. WHETHER THE PROPOSED UNIT IS WITHIN THE CURTILAGE OF A HOUSE?

The word curtilage is not defined in statute. However, there are some important cases which discuss curtilage.

To fall within the curtilage of a building, land should serve the purpose of the building in some reasonably necessary or useful manner. This was established in *Sinclair-Lockhart's Trustees v Central Land Board* [1950]. In *Methuen-Campbell v Walters* [1979] it was found that for land to fall within the curtilage of a building or other land there must be an intimate association. In the Court of Appeal case, *Dyer v Dorset CC* [1988], it was held that curtilage is a small area forming part and parcel with the house or building which it contained or to which it was attached. In that context, the judge commented that the kind of ground most usually attached to a dwelling house is a garden.

On this basis, the definition of a 'curtilage' or 'domestic curtilage' is usually a garden, but can include parking areas, access roads, vegetable plots, children's play areas, and stables (where the horses are kept for pleasure rather than agricultural use). The domestic curtilage is not necessarily marked off or enclosed, but it should be clearly attached to the house or serving the purpose of the house in some useful and intimate way.

The Site Location Plan shows the location of the proposed unit in relation to the dwelling house. As shown, the proposed unit is located within the rear garden the proposed unit can be easily accessed by the members of the household as part of the overall use of the house.

The proposed unit is sited on land attached to the dwelling and which serves a useful and intimate purpose of the dwelling. The site of the proposed unit is not enclosed, marked off or severed from the dwelling in any way. On this basis, the proposed unit is clearly within the curtilage of the dwelling.

3. WHETHER THE DEVELOPMENT CONSTITUTES A MATERIAL CHANGE OF USE OR A SEPARATE DWELLING?

The Town and Country Planning Act 1990 and the Caravan Sites and Control of Development Act 1960 both use the term 'incidental to the enjoyment' with reference to the use of a structure or caravan in association with the main house.

In order for a 'change of use' of the land not to occur, the use of the caravan must accompany or support the use of the dwelling house. If a caravan is used in connection to the incidental enjoyment of the house then the use of the caravan may be described as being 'incidental to the primary uses of the dwelling house'.

A caravan within the curtilage of a dwelling house may have a number of incidental uses for which planning permission would not be required. For example, it could be used for additional living accommodation, provided that it remained part of the same planning unit as the dwelling house and the unit remained in single family occupation.

Therefore, the inclusion of a bathroom or other domestic facilities does not disqualify a proposal from meeting the definition in the 1960 Act; in fact, a caravan by its very nature must have the domestic facilities that allow habitation.

Considering that practically all commercially available caravans and mobile homes have washing, cooking and sleeping facilities and the current definition of a caravan requires a caravan to have the elements for 'human habitation', both give clear conclusion that a caravan cannot be considered non-incidental or development purely by that fact that it has the facilities that allow it to be used as an habitable dwelling.

As illustrated in the enclosed drawings, the proposed unit includes a shower room with WC and would be used for uses ancillary to the main dwelling.

The proposed unit would not be used for any commercial purposes or as a separate, independent dwelling. The proposed unit would only be used by members of the household as part of the overall use of the house.

The proposed unit would either share or be dependent on the main dwelling for all primary domestic facilities, including main bathroom, kitchen, living spaces, as well as primary access, utilities, postal address and waste collection.

On this basis, the use of the proposed unit does not constitute a material change of use of the land and a change of use application is not required. Also, whilst the proposed unit includes some domestic facilities, including a bathroom these facilities are not sufficient for the unit to operate as a separate dwelling, nor would the unit ever be used as a separate, independent dwelling.

CONCLUSIONS

It is clearly demonstrated above, and by the enclosed details, that the proposed unit meets the definition in the Caravan Sites and Control of Development Act 1960 (as amended by the 1968 Act) and does not amount to development nor would it amount to operational development or a material change of use.

It is established that the proposed unit is a 'Caravan' within the curtilage of a dwelling and does not constitute a material change of use or a separate dwelling, thereby ensuring compliance with the relevant legislation.

On this basis, a lawful development certificate for the siting of a caravan within the curtilage of 82 Kenilworth Avenue should be approved.