

DELEGATED PLANNING APPLICATION REPORT

Ward: Caversham Heights

App Ref: 240616/CLP

Address: 192 Upper Woodcote Road, Reading

Proposals: Certificate of lawful development for the placement of a caravan with the curtilage of 192 Upper Woodcote Road. Siting of caravan in rear garden for purposes incidental to the enjoyment of 192 Upper Woodcote Road.

Case Officer: Alison Amoah

Date received (valid from): 13th May 2024

Target Decision date (ext): 15th July 2024

Introduction and Proposal

The application site is a one storey flat roofed dwelling with a part pitched upward roof extension (approved under ref: 05/00312) located off a private road from Upper Woodcote Road (behind no. 194). Permitted development rights were removed under that permission, but this has no bearing on this Certificate, which is sought to lawfully establish that the proposed siting of a caravan would not constitute development (as defined under the Planning Act).

The surrounding area is predominantly residential and to the rear boundary of no. 194, i.e. the shared north-western boundary with no. 192, there are TPO trees protected under order 54/07.

The property is not a listed building, nor does it fall within a conservation area.

The proposal is for the siting of a caravan in the rear garden for purposes incidental to the enjoyment of 192 Upper Woodcote Road. The mobile home would measure 10m in length and 5m in width. The caravan would have a flat roof with a maximum height of 2.6m.

The applicant has confirmed that the mobile home would be occupied by the owners' own family, and it would share the facilities within the main dwelling. The mobile home would not be separately metered and would not have a separate access. The mobile home would be assembled on site and would remain able to be transported.

This application seeks to establish that the siting of a caravan in the rear garden would be lawful and would not constitute development.

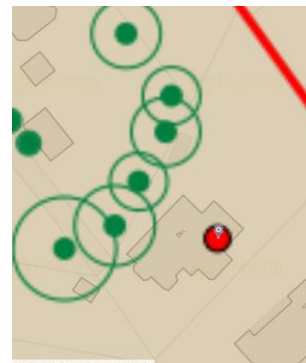
Site visit date: 9th July 2024



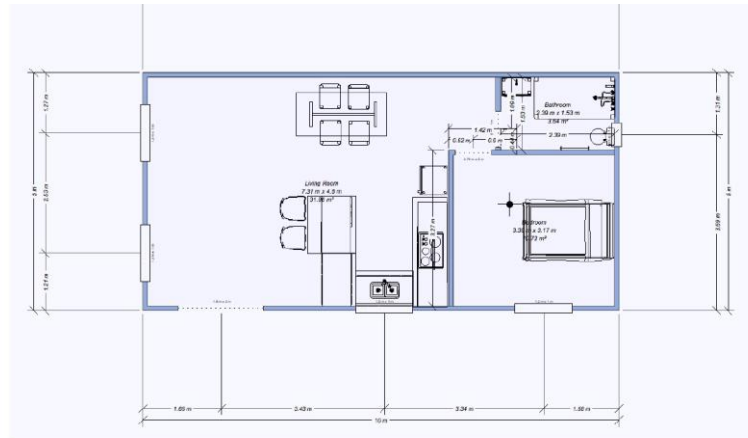
Google Earth Aerial Photo



Proposed Block Plan



Location of TPO trees



Proposed Floor Plan

Relevant Planning Policy and Guidance

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and is so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed ‘materially’ without a planning application for it.

The certificate is not planning permission. The planning merits of use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that ‘The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use (section 191 of the Town and Country Planning Act 1990), if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability’.

Plans/Documents Submitted

The applicant supplied the following, received on 13th May 2024, unless otherwise stated:

- Application form
- Location Plan
- Proposed Block Plan, Received 12th July 2024
- Drawing no: P:003 - Proposed Floor Plan
- Drawing no: A2001 - Proposed Front Elevation
- Drawing no: A2002 - Proposed Rear Elevation

- Drawing no: A2003 - Proposed Side Elevation
- Drawing no: A2004 - Proposed Side 2 Elevation
- Supporting Statement

Relevant Planning History

05/00312 (050295) - Addition of first floor to dwelling in new roof, to provide bedrooms - Approved 27/6/2006

Summary of Consultations

Legal advised that the description of development should be altered to '*Siting of mobile home in rear garden for purposes incidental to the enjoyment of 192 Upper Woodcote Road*' so that the position is clear. If the residential use of the mobile home became separate from the principal dwelling, there would be a material change of use which would require express planning permission.

Relevant Planning Policy and Guidance

National Planning Practice Guidance

Town and Country Planning Act 1990 (as amended)

The Caravan Sites and Control of Development Act 1960 (as amended)

Assessment

The submitted Statement states: "*3.3 Planning permission can only be required where **development** takes place, and development is defined in Section 55(1) of the Town and Country Planning Act 1990 as being:*

"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."

*3.4 This definition has two 'legs'; one involving permanent **physical alterations** to land, and the other **material changes of use** of buildings or land.*

3.5 The caravan to be sited on the land the subject of the current application will comply with the statutory definition in every respect. No operational development as defined by Section 55(1) will take place."

Under Section 55 of the Town and Country Planning Act 1990 it states that the use of any buildings or land within the curtilage of a dwellinghouse for any purpose **incidental** to the enjoyment of the dwellinghouse, does not constitute development.

Would the caravan meet the definition of a Caravan?

Section 29 (1) of The Caravan Sites and Control of Development Act 1960, defines a caravan as:

"any structure defined or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted..."

This was amended by Section 13(1) of the Caravan Sites Act 1968, which deals with twin-unit caravans. This permits 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 not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled."

Section 13(2) of the 1968 Act prescribed the maximum dimensions for twin-unit caravans as:

- a) length (exclusive of any drawbar); 60 feet (which equals 18.288 metres);
- b) width: 20 feet (which equals 6.096 metres);
- c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (which equals 3.048 metres).

The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 amended Section 13(2) of the 1968 Act to increase the maximum dimensions of a caravan to:

- a) length (exclusive of any drawbar) - 65.616 feet (which equals 20 metres);
- b) width - 22.309 feet (which equals 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 (which equals 3.05 metres).

A caravan will not require planning permission subject to it conforming to the above legal definition, which comprises 3 main tests: size test, construction test, and mobility test.

Size test - The proposed caravan would be within the size limits (20mx6.8m) at 10m long by 5 m wide.

Construction test - As the proposal is a single unit, rather than a twin unit, i.e. because it is less than 5.5m wide, the "construction test" from s13(1)(a) Caravan Sites Act will not apply.

Mobility test - It is not necessary for a caravan to be towed when being delivered or moved, 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. A caravan can be assembled on-site and its mobility off-site may be down a hypothetical road. The proposal would not need direct access to a road to be deemed a caravan. The proposed caravan would meet this test.

With regards to installation, the caravan would be delivered in sectional form and assembled on site. For a caravan to meet the mobility test it needs to be shown that when assembled it would be able to be lifted off the ground and moved from one place to another. The submitted evidence (Appendix A of the Supporting Statement) shows that once assembled the unit could be lifted in one piece.

Would the use of the caravan be incidental to the use of the dwelling land? Would there be a material change of use of the land?

As well as meeting the above tests the caravan would need to be located within the curtilage of a dwellinghouse, and the use of the caravan be incidental to the use of the dwelling house.

A caravan is regarded as an article of moveable personal property, known as a chattel. There is no public law preventing one being kept in the garden of a dwellinghouse, but there are laws regulating the use of the land. Provided there has been no material change in the use of the land, planning permission will not be required.

Gardens are used by occupants for the enjoyment of the dwellinghouse. A caravan may be sited in a garden and used by members of the household or by visiting guests, in connection

with the enjoyment of the dwellinghouse. Provided the occupants of the caravan continue to use the facilities of the dwellinghouse, the siting of a caravan does not change the use of the land.

The applicant has confirmed that the use of the mobile home would be solely by the owners' own family. The submitted Supporting Statement states that the caravan's water and electrical supply would be shared with the main property, and it would not have its own utility meters or postal address. Also the provision of meals, laundry facilities etc would be shared, and that there would be no registering of the caravan as a separate unit of occupation with respect to Council Tax. The submitted Statement also states that there would be no physical or functional separation of land, and, therefore, no separate planning unit created.

The Proposed Floor Plan illustrates that the proposed caravan would contain one unit comprising one bedroom, kitchen/living/dining area and bathroom. Although the caravan would be suitable for a unit of independent living, by definition a caravan would have facilities such as bedrooms, kitchens and bathrooms. No law states that a caravan with such full living facilities constitutes development. As such, a caravan falls outside of planning control. The proposal must, therefore, only meet the criteria to remain outside planning control.

Within the submitted Supporting Statement the applicant has also included a number of appeal decisions and a Transcript of House of Commons Debate (22 November 2005) to provide evidence supporting their position.

Having reviewed the submitted information it is considered that the application site would remain occupied by a single extended family and the occupation of the caravan would remain incidental to the primary use of the land and, therefore, no material change of use would take place.

The applicant has provided sufficient information, therefore, to demonstrate that the proposal would not constitute development, nor would a material change of use of the land take place, as defined by Section 55 of the Town and Country Planning Act 1990.

Even though the siting of the caravan would be considered lawful, as the proposed caravan would be close to TPO trees plans and specifications for the caravan would still need to be agreed with the Natural Environment Team and an informative is included.

Recommendation

The proposal has been assessed against the Town and Country Planning Act 1990 (as amended) and The Caravan Sites and Control of Development Act 1960 (as amended). It can be confirmed that the proposed operation would be lawful for planning purposes on the basis of the following information received on 13th May 2024, unless otherwise stated:

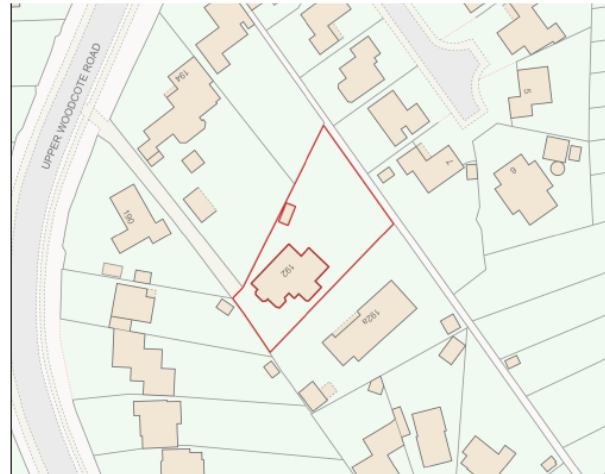
- Application form
- Location Plan
- Proposed Block Plan, received 12th July 2024
- Drawing no: P:003 - Proposed Floor Plan
- Drawing no: A2001 - Proposed Front Elevation
- Drawing no: A2002 - Proposed Rear Elevation
- Drawing no: A2003 - Proposed Side Elevation
- Drawing no: A2004 - Proposed Side 2 Elevation
- Supporting Statement

Sufficient evidence has been provided to demonstrate that a Certificate of Lawfulness should be granted for the proposed siting of a caravan in the rear garden for purposes incidental to the enjoyment of 192 Upper Woodcote Road. Therefore, the Local Planning Authority can issue the applicant with a Certificate of Lawfulness for the proposed use.

Informatives

Construction and Demolition

TPO trees



Location Plan (not to scale)