

DELEGATED APPLICATION REPORT

Ward: Thames Ward

App Ref: PL/26/0426 Lawful development: Existing use

Address: 20 SEND ROAD, CAVERSHAM, READING

Proposal: Use of land for dayroom and 2no. mobile homes

Applicant: Mr F Valler

Received date: 30 March 2026

Target Decision date: 25 October 2026

Case Officer: Anthony Scholes

1. SITE DESCRIPTION

The site comprises land between No.16 & 24 Send Road that fronts onto Send Road, and land to the rear of No.14 & 16 Send Road which was formerly part of the rear gardens of these properties. The rear part of the site measures some 34m by 22m, with a 36m long access onto Send Road. The site is commonly referred to as 20 Send Road.

Adjacent to the south of the site is an industrial premises (Star Motor Services, a B2 Vehicle Workshop), to the north are existing Victorian era houses, and to the rear are three storey blocks of flats.

The site is located within Flood Zone 3a and/or 3b.



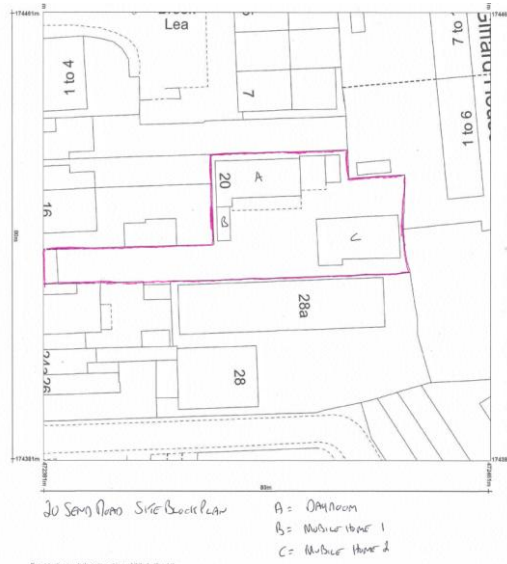
Figure 1 - Larger Mobile Home (left); 'Dayroom' (right)



Figure 2 - 2009 construction photograph of 'Dayroom'

2. PROPOSAL AND SUPPORTING INFORMATION

The certificate is sought for the lawfulness of the use of the site described by the applicant to be the use of the land as “C3 – Dwellinghouses” which includes the siting of two mobile homes and a dayroom building. The applicant relates to units: ‘A’, an east-west orientated building which contains a kitchen, bedroom, and living areas associated with the site; ‘B’ a small north-south orientated mobile home; and ‘C’ an east-west oriented mobile home.



The following was submitted to accompany the application:

- Location Plan
- Application form
- A statutory declaration from an occupier of the land
- The ‘Planning base’, Planning Statement
- ‘20 send road – photos’ a package of google earth aerial images of the site

3. RELEVANT PLANNING HISTORY

PL/13/0444 (FUL) - Retrospective application for the use of the site for the stationing of 2 mobile homes, retention of dayroom and associated outbuildings. No decision notice listed on LPA system.

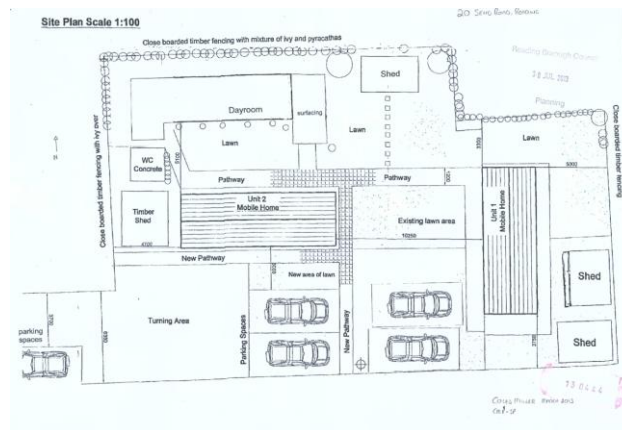


Figure 3 - Plans from 13/0444

PL/11/0305 (CLE) - Certificate of lawfulness for existing use of land for siting of two mobile homes and a dayroom. Certificate not given (refused) 8 September 2011

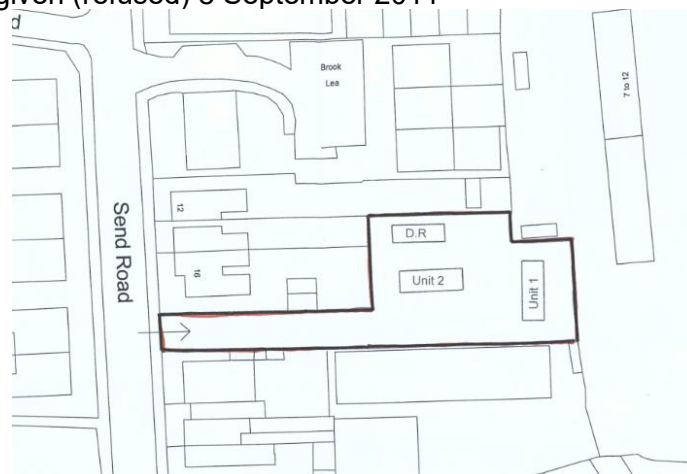


Figure 4 - Plans from 11/0305

PL/09/0083 (FUL) - The stationing of three residential mobile homes (two being retrospective); the retention of three ancillary sheds, an external WC and kennel building; and the laying of hard standing and decking. Finally disposed of 15 February 2011

PL/09/0339 (FUL) - Stationing of 3 residential mobile homes (2 are retrospective) on the land for a temporary period of five years. Withdrawn (27/04/09) to allow applicant to resubmit with a flood risk assessment.

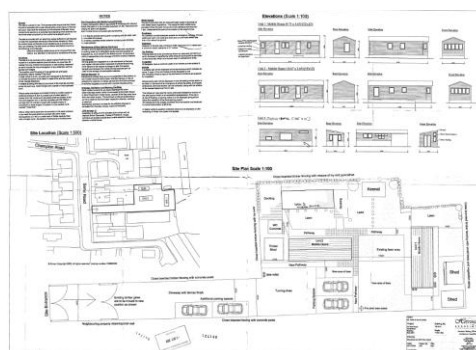


Figure 5 - Plans from 09/0083

PL/08/1296 (FUL) - Stationing of 3 Residential caravans and construction of hard standings (Temporary permission for 5 years). Application returned because adequate plans and information not submitted to validate.

93/00436/CLE - Certificate of lawfulness for existing use for one permanent residential mobile home. Application returned (09/06/94). (A Certificate could not have been granted at the time because the previous use had been authorised by temporary permissions; the use could not therefore have acquired a lawful status).

85 TP 975 - Siting of three caravans. Permitted from 20/01/86 to 14/01/91. (NB It is not clear whether the above temporary permissions related to three caravans in residential use or to a mixture of static and touring caravans).

80 TP 1046 - Siting of three caravans. Permitted from 31/03/81 to 31/12/85

25120 - Siting of three caravans. Permitted from 19/12/75 to 31/12/80

5134 TP1353 - Siting of three caravans. Permitted from 05/03/71 to 31/12/75

RBC Planning Enforcement

06/00363/DEV Enforcement notice(s) 1 and 2: Two mobile homes installed (Appeal No: APP/E0345/C/11/2167109 (Appeal Dismissed 25.09.12) ("Notice 2")

Officer Note: An appeal was only correctly made against "Notice 1", (which related to operational development), with "Notice 2" (which related to change of use of the land) having taken effect on 16 December 2011, with a compliance period of 16 December 2012. "Notice 1" was amended by the above referenced appeal decision and required (strikethrough as removed from "Notice 1" and bold text added by the Inspector):

"Notice 1"

3. *The matters which appear to constitute the breach of planning control*

*Without planning permission, the erection on the Land of a single storey detached dwellinghouse, a prefabricated concrete detached building used as a bathroom/toilet, a detached timber building used as a kitchen, ~~three and a detached timber storage sheds~~ **shed**, and the laying of hardstanding on the Land (the unauthorised development).*

...

5. *What you are required to do*

- ~~1. Cease the residential use of the land~~
- ~~2. Remove from the land the mobile home and caravan stationed at the approximate positions marks (1) and (2) on the attached Plan B~~
3. Take down and remove from the Land the dwellinghouse (including floor slab) erected at the approximate position marked (C) on the attached Plan B
4. Take down and remove from the land the **building used as a kitchen, the timber shed sheds** and prefabricated concrete building (including floor slab) from the approximate positions marked (A), ~~(B), (D),~~ (E) AND (F) on the attached plan B
- ~~5. Take up and remove from the Land all hardstanding~~
6. Remove from the Land all rubble, debris and other materials resulting from compliance with the above Requirements

"Notice 2" requirements

5. What you are required to do

1. Cease the residential use of the Land
2. Remove from the Land the mobile home and caravan stationed at the approximate positions marked (1) and (2) on the attached Plan B
3. Take down and remove from the Land the dwellinghouse (including floor slab) erected at the approximate position marked (C) on the attached Plan B
4. Take down and remove from the land the timber sheds and prefabricated concrete building (including floor slab) from the approximate positions marked (A), (B), (D), (E) and (F) on the attached Plan B
5. Take up and remove from the Land all hardstanding
6. Remove from the Land all rubble, debris and other materials resulting from compliance with the above Requirements



Figure 6 - Plan B from enforcement notice(s)

Officer note: whilst there are some amendments to enforcement notice 1, **enforcement notice 2 as valid and unamended remains to require the removal of a mobile home and a caravan from the land. The requirements of the notice are not considered to be altered by changing the location of the buildings on the site.**

4. CONSULTATIONS

The following were consulted:

Council Tax (RBC) - Our records show we have these two caravans separately banded for CT purposes, both caravans have been banded since 01.09.2006 and both in occupation since this date. No notification of the change of size of caravan was received by RBC's Council Tax Team.

Electoral Register (RBC) – Notes that a number of residents have been identified on the electoral register from at least 2017.

RBC Legal - I agree that it is not entirely clear from the images whether the smaller mobile home is the same throughout the relevant period. Also, the applicant hasn't addressed the gap in time for the change of the mobile homes in their statutory declaration. The applicant needs to submit clearer evidence or at the very least clarify their existing evidence before we can be satisfied the certificate can be granted.

Follow up advice: I note that the applicant only appealed Notice 1, which related to the erection of a dwellinghouse. No appeal was made against Notice 2, which alleged the material change of use of the land to the stationing of a mobile home and caravan for residential occupation. The appeal decision confirms that Notice 2 took effect and remains extant. As the CLEUD seeks to establish the lawfulness of the residential use of the mobile homes, which is the subject of the extant enforcement notice, the use cannot be seen as lawful through the passage of time and the application should therefore be refused.

5. EQUALITY ACT

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development. See commentary below on equality of access to the development.

6. LEGAL AND PLANNING POLICY CONTEXT

Annexure 8 "Lawfulness and the Lawful Development Certificate" of Planning Circular 10/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements' sets out the procedure for assessing applications for certificates of lawfulness:

Section 191(1) of the 1990 Act enables anyone to apply to the LPA for a decision on whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

The onus of proof in a LDC application is firmly on the applicant. Subsection (4) of section 191 provides that if, on an application under the section, the LPA are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted by them (see paragraph 8.35 below), they shall issue a certificate to that effect; and, in any other case, they shall refuse the application'.

Para 8.3 states, 'by virtue of section 191 (2), uses and operations are "lawful" if no enforcement action may be taken against them **and** they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), *a failure to comply with any condition or limitation subject to which planning permission has been granted is "lawful" if the time for taking enforcement action in respect of the failure has expired and it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.*'

7. APPRAISAL

Certificate Assessment

With regard to whether or not the two mobile homes on the site are moveable structures or permanent development, regard is had to their size, permanence and physical attachment to the land. In this regard, the mobile homes (B and C) are of a size, with a wheeled chassis, that can be manoeuvred small distances on a site or can be loaded onto a trailer and transported. The mobile homes are intrinsically designed to not be permanent in any one location; whilst they are linked to services, these can be detached with relative ease. Similarly, it is considered that any boarding around the chassis below the raised floor level can be easily removed. Finally, it is considered that the homes are not physically attached to the land – instead they sit on top of concrete slabs. As such, the use of the land would be subject to the 10 year immunity period, not the four year rule.

Notwithstanding the timeframe for the immunity of the development as discussed below. The use may only become lawful where through the passage of time where no enforcement action has been taken against the use. As detailed above, an enforcement notice has been issued relates to the use of the site as two mobile homes, and the construction of a dwellinghouse (referred to as a 'Dayroom' by the applicant). As such, it would appear that there has been specific enforcement action related to the development on the site, and therefore a certificate would not be able to be given in this instance (even had the use been in situ for 10 years).

The applicant's statement details that (1.10):

As such, an impasse has taken place on the site since 2013. Given that 13 years have passed and the site has remained in the same use as it was in 2011 then we believe that a further application for a Lawful Development Certificate should now succeed and regularise the use of the land so that the family can move on with certainty.

Whilst the applicant contends the use has continued since 2011, the evidence indicates that at least one of the caravans/mobile homes has been replaced during the relevant period and therefore the evidence does not clearly demonstrate the development described in the application has existed continuously throughout the relevant ten-year period

Even if the enforcement notice was not in force, and the CLE had been able to be assessed against the test for the 10 year immunity rules, the applicant refers to (Building A) as a dayroom, this is considered to be a permanent structure with physical attachment to the land. Such a building could be lawful if it has been in existence for more than four years, or without enforcement action having been taken against it. Photos taken on 23 July 2009 (by a previous case officer) clearly show the building to be under construction. Within the appeal which related to the operational development of this structure, it was considered that at the time of issuing enforcement notice 1 and 2, that the structure had been significantly altered, in such a way that related to a separate structure not immune from enforcement action, with the enforcement notice upheld requiring the removal of this structure. The Inspector also concluded within that appeal that 'building C' was considered self-contained sufficient to be classed as a dwellinghouse.

Had the application not failed in relation to the above, with regard to the timeframe for the siting of the two mobile homes to be lawful, it would be necessary for the applicant to demonstrate that there has been an uninterrupted change of use of the land (for the purpose of stationing two mobile homes) for 10 years or more. The application for the certificate was made on 30 March 2026, therefore, the relevant 10 year period would run from 30 March 2016 to 30 March 2026.

In this regard, aerial photographs submitted by the Applicant from 2009 show the site to contain what appears to be two separate mobile homes, one to the east of the site, and one to the west. These appear to have been required for removal within 12 months of the 2013 enforcement appeal decision (Appeal No: APP/E0345/C/11/2167109 (Appeal Dismissed 25.09.12), being by 25 September 2013. The subsequently dated aerial image (dated June 2018) shows the western mobile home sought under the certificate in situ. Not until July 2021 does the extant situation appear on the aerial image (as below). This is confirmed by the Applicant's statement which states (1.11):

"the applicant moved the current mobile home which is orientated west to east on the site to replace the previous mobile home which became dilapidated (that previous home was orientated north to south)."



Figure 7 - 2009 aerial (left); 2020 aerial (right)

As such, the Applicant's evidence does not provide sufficient clarity to demonstrate that the unauthorised development has been in situ for the requisite timeframe, which only demonstrates that one caravan has been in place from 2018, and the other since 2020. Whilst it would appear that there have been caravans or otherwise on the site for a significant timeframe, in 2013 the upheld enforcement notice related to the stationing of two mobile homes on the site (the use as sought to be confirmed by this certificate).

Potential Equalities Act Impacts

It is noted that the applicant seeks a certificate based on the fact that they have reported long term occupancy, and/or ownership of the site, and/or buildings. In not giving the certificate, it may displace those living within the site. However, the assessment only considers the lawfulness of giving a certificate, not the merits of any such proposal.

It is noted that the site has been subject of two (2 no.) enforcement notices since 2013, and it would appear that the owner/occupiers have not complied with such notices. The enforcement of the enforcement notices which apply to the land will fall separately to the Council's enforcement officers.

8. CONCLUSION

In order to grant a Certificate of Lawfulness for existing use as two caravans (mobile homes), and a 'dayroom' (although this was considered a dwellinghouse in the aforementioned appeal), there must not have been enforcement action taken against the proposal.

The site is subject to two (2 no.) enforcement notices relating to the use as two mobile homes, and a dwellinghouse (referred to by the applicant as a 'Dayroom') as upheld at appeal in 2013. The Applicant's planning statement acknowledges the enforcement notices as extant, and requests that they be withdrawn by the LPA.

While the applicant asserts that it has been 13 years since the enforcement notice, and that some elements of the site have remained in place for 10 years, it also would appear clear that the site has been altered as recently as 2020, and therefore it is not clear if a certificate could be given in absence of the enforcement notices, although on the basis of the enforcement notices, the certificate could not be given on the basis of immunity periods.

As such, the CLE is not considered possible to grant on the basis that the use sought has been subject of enforcement action (requiring its removal) and therefore does not meet the requirements for a CLE to be given.

9. RECOMMENDATION

Refuse Certificate.