

## DELEGATED ASSESSMENT

**Application no:** PA/2022/1058

**Proposal:** Application for a Lawful Development Certificate for the proposed siting of a caravan within the curtilage of the dwelling to provide additional accommodation

**Location:** 100 Bottesford Lane, Bottesford, DN16 3JN

**Applicant:** Lesley Paton

**Officer:** Emmanuel Hiamey

## LEGISLATION

An application for a Lawful Development Certificate for a proposed use under section 192 of the Town and Country Planning Act 1990 (as amended by Section 10 of the Planning and Compensation Act 1991) is not a 'planning application' in the normal sense. Thus an assessment of the development plan and "planning merits" are not relevant.

The Town and Country Planning (Development Management Procedure) (England) Order 2015

The NPPF is silent on s192 applications but there is guidance on such applications in the Planning Policy Guidance.

## CONSULTATIONS

There is no statutory requirement to consult third parties including highways, parish councils or neighbours. However, it has been deemed reasonable and prudent to consult with the local Parish Council and nearby residents to ascertain whether any relevant evidence is known locally to support or refute the application.

Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

**Environmental Protection Team** has confirmed the department has no further comments to make.

**Environmental Health and Housing** has considered the application and commented that the caravan shall only be used as ancillary accommodation for the main residence. Should the caravan be used as separate self-contained accommodation, it will require planning permission and a licence under the Caravan Sites and Control of Development Act 1960 (as amended). In this event, the caravan will need to comply with the relevant Model Standards and legislation associated with caravan sites.

## **PARISH/TOWN COUNCIL**

None

## **PUBLICITY**

None

## **LETTERS OF COMMENT**

None

## **PLANNING HISTORY**

7/1981/0735: The proposal to install bow windows was approved on 23 October 1981.

## **MATERIAL CONSIDERATIONS**

A lawful Development Certificate is sought for the proposed siting of a caravan within the curtilage of the dwelling to provide additional accommodation at 100 Bottesford Lane, Bottesford, DN16 3JN.

The site is within the development boundary of Scunthorpe in a residential area. The site contains a two-storey semi-detached dwelling and outbuilding. It fronts Bottesford Lane and is bound at the north by 98 Bottesford Lane. In the south, it is bound by the adjoining property 102 Bottesford Lane.

This application has been submitted under s192 of the 'Act' to determine whether the proposed use of land for the siting of a caravan within the garden of the dwelling known as 100 Bottesford Lane, Bottesford, for ancillary residential use to this dwelling is lawful.

Section 192 of the Act indicates that the burden of proof lies with the applicant. The the relevant test is 'the balance of probabilities.'

### Supporting Statement and Evidence of grounds for application:

This application is accompanied by a supporting planning statement in support of this application plus a location plan. The location of the caravan is not identified on the plan but is established would be located within the curtilage of the dwelling.

The main elements of the submitted statement indicate that the key elements of the proposal are:

- The ancillary accommodation provided would be a caravan
- The caravan would be sited within the lawful garden grounds of the existing dwelling;
- It would be sited, and will thereafter remain, a movable structure;

- It would not be permanently affixed to the ground and no operational development would need to take place; only services would be connected;
- The use of the caravan would at all times be ancillary to the use of the residential planning unit that is 100 Bottesford Lane;
- The caravan would not become a separate residence provided with its separate curtilage;
- The caravan would not have a separate postal address, it would share the existing dwelling's utility services.

### Determination of Application for Lawful Development Certificate Guidance

The Planning Policy Guidance (PPG) indicates that ;

'A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process. In determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

The PPG also adds that:

'Precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it....'

'...In all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter to define it unambiguously and with precision.

### Planning Law

The meaning of development requiring planning permission is provided in section 55 of the Town & Country Planning Act 1990 and comprises two elements:

- a) Operational Development is "the carrying out of the building, engineering, mining or other operations in, on, over or under land" or
- b) "the making of any material change in the use of any buildings or other land."

Section 192 of the Act states that;

'If any person wishes to ascertain whether—

- a) any proposed use of buildings or other lands; or
- b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use of operations in question.

If, on an application under this section, the local planning authority is provided with information satisfying the authority that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case, they shall refuse the application'.

#### Evaluation:

The main issue in the assessment of this application is whether the proposal would amount to development as defined in section 55 of the Town & Country Planning Act 1990 and if it does, whether it is permitted development or whether it amounts to development requiring planning permission.

The consideration would rely on the following factors:

- Whether the proposal constitutes a 'caravan' as defined in the Mobile Homes Act 2013
- Whether the caravan will be used for residential purposes ancillary to the main dwelling.
- Whether the caravan will be sited within the garden that serves 100 Bottesford Lane
- Whether the proposed caravan constitutes operational development or whether it involves the change of use of the land.

#### Whether the proposal constitutes a 'caravan' as defined in the Mobile Homes Act 2013.

The definition of caravan provided in Section 29 of Caravan Sites and Control of Development Act 1960 states that:

"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 modified by the '1968 Act' which deals with twin unit caravans and points out that for planning purposes both caravans and mobile homes have the same meaning in both the 1960 and 1968 Acts.

The 1968 Act states that:

1

'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 using 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."

2

For Part 1 of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing sub-section if its dimensions when assembled exceed any of the following limits, namely:

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

3

The [Secretary of State] may by order made by statutory instrument after consultation with such persons or bodies as appear to him to be concerned substitute for any figure mentioned in subsection (2) of this section such other figure as may be specified in the order.

To meet the definition of a caravan, the unit needs to pass the following tests. The size test, the construction test and the mobility test.

#### Size test

According to the details, the proposed caravan will be 11.44m by 5.4m and the internal height would be 2.25m from floor to the ceiling. No details of the external height were included as part of the submitted planning statement. This information was not requested.

On this basis, the caravan would pass the size test.

#### Construction test

The applicant has indicated that the caravan would be factory-built or rapidly assembled on site (in just a few days) from pre-manufactured components.

The chassis is constructed from pre-machined and indexed CLT (maximum length 5.4m) components and assembled from man-portable pre-finished and cabled panels. The walls are 222mm thick including 150mm pre-manufactured stud work and pre-cut 100mm slab insulation.

The floor is constructed from pre-manufactured 220mm CLT with 150mm joists and pre-cut 100mm insulation. All roof and ceiling components are also CNC-cut before assembly.

When assembly on-site is necessary, all the components would be delivered directly to the site and no material cutting is necessary. Once assembled the hybrid garden annexe is fully movable in one piece and may be removed by crane in a few hours (or may also be readily disassembled and rapidly moved).

From the above, it would appear that the construction test has been met.

### Mobility test

Turning to the mobility test, for a caravan to pass the mobility test when assembled, it must be capable of being lifted off the ground moved, placed on either a motor vehicle or trailer and moved from one place to another.

The mobility test does not require a caravan to be mobile in the sense of it being moved on wheels. It is generally only sufficient that the unit can be picked up wholly intact, the whole unit must be physically capable of being transported by road.

In this case, the caravan would be “a structure which when assembled is 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”.

The caravan will be placed on either:

- Concrete plinth foundation
- Concrete lattice (max 5 sqm)
- Lightweight lattice

The structure will not be fixed down, resting solely under its weight.

Services are provided separately and may be rapidly decoupled. In general, it is judged that the proposed caravan would be capable of being moved to meet the mobility test.

Overall, it is judged that the proposed caravan falls within the statutory definition of a caravan set out by the 1960 and 1968 Acts.

### Whether the caravan will be used for residential purposes ancillary to the main dwelling.

Having reviewed the details of the supporting statement, it is believed there is no intent that the caravan will be made available for separate, independent, residential use. At all times the occupation of the caravan will remain ancillary to the primary use of the land.

In this case, it is believed that the water and the electrical supply would both be shared with the main property. It does not appear the caravan will be registered as a separate unit of occupation concerning the payment of Council Tax and there will not be a physical or functional separation of land.

From the information submitted, it is clear that the proposed caravan will not be used independently and that it would not result in the creation of a separate planning unit. There will also be a clear functional link between the proposed caravan and the main dwelling. On this basis, it is concluded that the caravan would be subordinate and 'ancillary' to the main dwelling.

Whether the caravan would be sited within the garden that serves 100 Bottesford Lane, Bottesford.

The application site is defined by the land outlined in red on the submitted location plan. This covers 100 Bottesford Lane, Bottesford and an extended garden area.

While the location of the caravan has not been shown on the plan, it is obvious from the description and the supporting statement, that it would be located within the garden.

From the information submitted, the applicant has demonstrated that the proposed caravan will be sited within the garden area that serves 100 Bottesford Lane, Bottesford.

Whether the proposed caravan constitutes operational development or whether it involves a material change of use of the land.

The siting of a caravan on land relates to the use of the land and does not involve building, engineering or other operations. It will only amount to 'development' where a material change of use of land occurs.

Whether the siting of a caravan constitutes 'operational development' or a material change of use will depend largely on its size, permanence and physical attachment to the ground. This principle is embedded in the legislative framework, endorsed by case law and routinely applied by the Planning Inspectorate. The main tests are enshrined in case law (see *Measor v SS* (1998) 4 PLR. 93).

Generally, the proposed unit falls within the definition of a caravan and is not operational development because it is not fixed to the ground and is capable of removal when no longer needed by the applicant or the occupier of the main dwelling.

Given the stated intentions relating to the use of the caravan, it is concluded that provided the caravan is sited within the residential planning unit, and its use remains ancillary to the main dwelling, the siting of the caravan does not result in any material change of use of the land.

Therefore planning permission would not be required.

Conclusion

In conclusion, taking into account the information contained within the supporting statement and associated plans, it is considered that the proposed caravan meets

the definition of a caravan as defined in the Caravan Sites and Control of Development 1960 and 1968 Acts.

Furthermore, it is considered that the siting of the proposed caravan involves the use of land and not operational development.

Its use will not result in a material change of use of the land given it would remain ancillary to the main dwelling.

On the balance of probabilities, the proposed siting of the caravan within the curtilage of the dwelling identified as 100 Bottesford Lane, Bottesford would be lawful.

**RECOMMENDATION:** Grant Lawful Development Certificate

The proposed siting of a caravan within the curtilage of the dwelling to provide ancillary accommodation at 100 Bottesford Lane, Bottesford, meets the definition of a caravan as defined in the Caravan Sites and Control of Development 1960 and 1968 Acts.

It does not involve development as defined in S55 of the Town and Country Planning Act 1990, as it would not constitute a material change of use or involve operational development.

The proposal meets the provisions of section 192 of the Town and Country Planning Act 1990 (as amended by Section 10 of the Planning and Compensation Act 1991) for a Lawful Development Certificate.