

DELEGATED DECISION REPORT

SMD/2024/0352
Valid 01/08/2024

BROOKFIELDS ANKORS
LANE
THORNCLIFFE

APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR A
PROPOSED MOBILE HOME,
ANCILLARY
ACCOMMODATION TO THE
MAIN RESIDENTIAL
BUNGALOW

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

The application is for a Certificate of Lawful Use relating to a proposed use that would see a lodge style KEOP mobile home used as additional ancillary living accommodation so that the 'elderly' resident's daughter, son in law, and grandson can move to the property and live with her. The certificate can only be granted in the circumstances where the proposed use (on the date of the application) would have a lawful status that would be immune from enforcement action. A proposed use can be lawful because the change to that use does not require planning permission. The application is to be decided on the basis of a legal determination with only consideration of evidence relating to that factor.

The report will set out the following considerations:

- What is the character/nature of the existing use?
- Will the introduction of the mobile home result in operational development?
- Will the proposed changes result in material change of use?

DESCRIPTION OF SITE

The property at Brookfields is a detached bungalow dwelling that presents to the roadside, set back behind a dwarf stone wall, boarded fence, and garden hedgerow. There is a small area of garden to the front and side of the dwelling. The rear of the dwelling appears to face, with relatively immediate proximity, onto a yard area used for aggregate storage.

PROPOSAL

The application is made out for the proposed use of a mobile home, within the residential land of the house, for ancillary residential use. The application details the caravan would be a 6m x 11m mobile home from the KEOP company. The application does not provide a floor layout arrangement. It is said in statement that the existing resident is of advanced years, has suffered falls, is of limited mobility and no longer drives, it is submitted that her daughter and immediate family would provide necessary support if they were able to live with her.

The mobile home would be placed on the garden land immediately adjacent and to the side of the existing dwellinghouse. It would be delivered by lorry, would not be affixed to the ground and would be capable of being transported.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

06/01141/FUL Side extension. Approved.

OFFICER COMMENTS

What is the character/nature of the existing use?

The land edged red includes all land under the resident's ownership, it includes and is limited to what appears to be the dwelling's obvious curtilage area and surrounding garden. It is clear that the dwelling and area of garden outlined in red on the site plan form one unit of ownership and occupation principally used for the residential purpose of a single dwelling house (Class C3 of the Use Class Order). The mobile home would be placed within that area, on land that can lawfully be used for purposes ancillary to the use of the dwellinghouse.

Would the introduction of the proposed KEOP mobile home be operational development or would it be lawfully defined as a caravan and therefore a use of land?

'Caravan' is defined in Section 29 of the Caravan Sites and Control of Development Act 1960 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 other 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.

Section 13 of the Caravan Sites Act 1968 states that twin-units are composed of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices, and should not exceed 60 feet in length, 20 feet in width and 10 feet in height overall (size later changed see below).

The size limitation of caravans as originally set out in the Caravan Sites and Control of Development Act 1960 was updated through The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006. The Order introduced the following maximum dimensions:

- Length (exclusive of any drawbar): 20 metres (65.616 feet)
- Width: 6.8 metres (23.309 feet)
- Height measured internally from the floor at the lowest level to the ceiling at the highest level: 3.05 metres (10.006 feet).

The dimensions of the proposed mobile home that is detailed on the application plan does not exceed these size limitations. The KEOP product detailed in the submitted plan is a structure designed and used for human habitation that would be capable of being moved from one place to another on a timber chassis. It would be 6m x 11m and internally no higher than 2.99m. It would be a caravan as defined by the Caravan Act 1960 and its introduction and use would amount to the use of land rather than operational development.

Would the introduction and use of the proposed mobile home result in material change of use?

It is well established in planning law that if a caravan is used within the same planning unit for purposes that are ancillary to the primary use and that it does not result in a physically and functionally separate planning unit- a material change of use will not occur – It is also held at s.55 (2)(f) of the Town and Country Planning Act that uses of land within the same use class are exempt from the meaning of development . There are numerous appeal decisions available that advocate and rehearse that approach.

Ancillary status is a matter of fact and degree and it is a matter of there being some functional link between the use and the primary use, in this case between the caravan and the dwelling house.

The proposal makes it clear that the caravan would only be occupied by the home owner and resident's daughter and her immediate family who will essentially live with and support the existing resident who is of advancing years – that in itself is evidence that there will be a functional link. It is said that the caravan occupants and those of the main dwelling will all live together as one household sharing storage, garden, and one utility supply – this made all the more likely because of the family relationship. It is not part of this proposal to use the caravan as a single stand alone, self-contained residence, that would be physically and functionally separate from the dwelling. On that basis the proposed use would not result in a material change of use and a certificate of lawfulness should be made out in those terms.

CONCLUSION

The proposed Use, as described in the applicant's evidence, would be lawful on the date of the application because it will not the result in a “material change of use”.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date:

X 

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council

