

DELEGATED DECISION REPORT

SMD/2025/0196
Valid 16/04/2025

**2 THE COTTAGES SMITHY
LANE
MOBBERLEY**

**CERTIFICATE OF
LAWFULNESS FOR A
PROPOSED MOBILE HOME
FOR USE ANCILLARY TO THE
MAIN DWELLING**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

The application is for a Certificate of Lawful Use relating to the proposed provision and use of a structure, which is described in submissions as a caravan. The proposal is to use the structure as additional ancillary living accommodation to the dwelling, to provide accommodation for the applicant's parents. The certificate can only be granted in the circumstances where the proposed use (on the date of the application) would have had lawful status and would have been 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.

DESCRIPTION OF SITE

The dwelling is located on the A522, an 18th Century turnpike route, between Cheadle to the north and Upper Tean to the South. Accessed via an unmade lane (Smithy Lane) it sits next to the junction and access with the highway. The dwelling is quite close to the roadside and, on approach from Cheadle and the north, its rear elevation and much of the functional curtilage (including areas of parking, patio and a large double garage) is in plain sight from some distance. The dwelling has recently been extended significantly to the side and rear elevations.

To the south of the dwelling, the other side of the lane, there is an area of land to the edge of the woodland beyond. This land was sold to the dwelling's then homeowner in 1983, restricted by covenant to be "an area of amenity or garden to be ancillary to 2 The Cottages Smithy Lane". The dwelling and this land have been registered with the Land Registry, as one property, under the same title since 1999. This land is obviously in use as an attractive garden ancillary and to the front of the dwellinghouse.

The application site and location plan identify both areas with a red outline to identify the relevant planning unit.

PROPOSAL

The application proposes the provision and use of a structure on a part of the red edged land that is to the south of the dwelling, to the other side of the road (although it is submitted that in any event the structure could be provided anywhere on the land shown edged red without a planning permission).

The structure is described in the application submission as meeting the statutory definition of a caravan and it said that it would provide living accommodation for the applicant's parents. The application submits that provision of the structure would not involve operational development and that as a land use it would be ancillary to the dwellinghouse and not involve a material change of use.

The structure would provide one bedroom, a bathroom, a kitchenette open to the one area of living space. The structure would be 10m by 4m and have a max external height of 3m. It would sit unattached to the ground or foundation, on top of ground screw plates, held in position under its own weight. There would be clearance beneath the structure so that straps/rigging can be positioned under the structure to lift it by crane and load it onto a flatbed lorry as one complete unit for transportation by road.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2019/0027 Extension to existing cottage. REFUSED - ALLOWED AT APPEAL
SMD/2021/0051 Erection of garage/home office. APPROVED.

OFFICER COMMENTS

The application presents several propositions which are supported with the evidence of appeal decisions:

- the stationing of a caravan on land, even for extended durations, constitutes a use of the land rather than operational development.
- The structure detailed on submitted plans would meet the definition of a 'caravan' S29(1) of the Caravan Sites & Control of Development Act 1960 and should therefore be correctly considered as a caravan.
- A caravan placed within the 'residential curtilage' of a dwellinghouse and used for purposes that are ancillary to the dwellinghouse would not result in a material change of use.

Broadly, there is no disagreement with any of those propositions.

The proposed structure would be designed for human habitation; it would be smaller than the dimension limits introduced at s13 of the Caravan Sites Act 1968 (as amended in 2006) to the definition of a 'twin unit caravan'; and, it would be placed on a screw pile foundation system, without being fixed down and allowing a minimum ground clearance of 150mm so that lifting straps/rigging can be positioned under the structure to lift it, as one, onto a lorry for transportation. In all these regards, the proposed structure can be accepted as a 'caravan' where stationing it on land, would not result in operational development.

The caravan would be used by the applicant's parents so the applicants can provide care and support. The applicant's dwelling and the caravan will be used interchangeably by the applicants and their parents. There would be no separate Address, Post Box, Utility meters, Services (such as internet, phone line and television), Parking, Garden area or Access. The caravan would not be independently registered as a separate unit of occupation for Council Tax purposes and it would not be viable in isolation and is dependent on the main dwelling for its functionality and operation. In these circumstances the stationing and use of a caravan could be a use that is ancillary to a dwellinghouse and not result in a material change of use.

However, for a land use to rely on an ancillary link to the principal use, in this case that of a single dwellinghouse, it follows that the use must take place on or share the same planning unit as that principal use/dwellinghouse.

As a working rule it should be assumed that the scope of the planning unit should normally be taken as the whole of the area in the same ownership or occupation unless there is some part of the area that can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.

The plans submitted with the application detail a specific location for the caravan on an area of land that is to the south of Smithy Lane to the edge of woodland. On first pass, it might be tempting to consider the land area to be separate from the dwellinghouse and outside of its planning unit, indeed the area was not included within the red edged plan associated with recent applications to extend and alter the dwellinghouse – it was outlined in blue.

However, the land area was sold by ARC Aggregates Ltd in 1983 to the then homeowners, under the covenant that the land shall only be used as amenity or garden land ancillary to No. 2 Smithy Lane. The property, the dwellinghouse and the land area to the south, was registered as one property with the land registry in 1999 under the one land title (SF413061).

The land area therefore has been owned and occupied by the homeowner at the dwellinghouse since 1983, it was sold and was to be used specifically for the prescribed purpose of providing amenity or garden land ancillary to the applicant's dwellinghouse at 2 Smithy Lane. On the balance of probabilities, the land must have been used generally for that purpose since that time. More recently, Google Street View photographs taken 2009, 2011, 2015, 2016, 2022, and 2023 provide evidence that, when those photographs were taken, the land was occupied and used as garden/amenity land that is ancillary to the dwellinghouse. A timber garden shed has stood on the land for decades (satellite photographs), and in the earliest available photographs from street view - it can be seen that a paved path and steps provided access into the land via a garden gate, ornamental garden planting was maintained, and garden furniture (benches and pagoda) had been provided on the land.

Despite its location to the other side of the lane and a boundary fence to the front of the dwelling, physically the land has obvious connection to the dwelling, simply, by reason of its close and adjacent proximity to the dwellinghouse that allows it to be used and occupied as one with the dwellinghouse. To that extent, the necessity for the residents to cross the lane to move between the land area and the dwellinghouse becomes inconsequential to the considerations that are key to the determination.

The land areas 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 garden area. 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 caravan would be placed on land that is within that area, on land that can lawfully be used for purposes ancillary to the use of the dwellinghouse.

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 new planning unit and a physically and functionally separate land use - 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 their parents, interchangeably who will essentially all live within the supportive arrangement of a family or household—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 / PLANNING BALANCE

The proposed stationing and use of the structure, detailed on the plans submitted with the application, would result in the use of a caravan that would be ancillary to the principal use of the planning unit as a single dwellinghouse. This ancillary use of land would not involve operational development and would take place within the one and same residential planning unit to the dwellinghouse.

The proposed stationing and use of the caravan would therefore not result in a material change of use and development that requires planning permission.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date: 16th June 2025

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council