

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130500/LP/2021

Date registered valid: 20 May 2021

Proposal: Certificate of Lawful proposed use or development in order to station a mobile home within the curtilage of a dwelling

Address: 64 Shawbury Road, Manchester, M23 2ZQ

Ward(s): Baguley Ward

Applicant: Julie Wingfield 64 Shawbury Road, Manchester, M23 2ZQ

Agent (if any): Mr Pete Cossie Contemporary Log Living Grove House , Silvermere Park, Shifnal, TF11 9BW

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 15 July 2021

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: 8 July 2021

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

The application site relates to a two storey semi-detached dwellinghouse set within a large plot of 312 metres². The property appears to be of the pre-fabricated built houses from the interwar period. Which appearance has been modernised in recent years



Listed building: Not applicable

Conservation area: No

Tree Preservation Order: None

Description of area

The wider area is residential in nature comprising of similar sized dwellinghouses which were built close to schools and shops.

Description of development

The applicant is seeking a Certificate of Lawful proposed use or development in order to station a mobile home within the curtilage of a dwelling

Consultations & Notification Responses

Not Required

Issues

Planning and Compensation Act 1991 - 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 if so, be granted a certificate to that effect.

In this case an application has been made for a Certificate of Lawfulness for a proposed use or development under section 192 of the Town and Country Planning Act 1990 (as amended) to station a mobile home within the curtilage of a dwelling.

The issue of the certificate is dependent on whether or not the siting of a mobile home for purposes ancillary to the main dwelling constitute operational development or a material change of use both are defined by Section 55 of the Town and Country Planning Act 1990.

Operational Development

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

Development' includes:

- building operations (eg structural alterations, construction, rebuilding, most demolition);
- material changes of use of land and buildings;
- engineering operations (eg groundworks);
- mining operations;
- other operations normally undertaken by a person carrying on a business as a builder.
- subdivision of a building (including any part it) used as a dwellinghouse for use as 2 or more separate dwelling houses

The categories of work that do not amount to 'development' are set out in section 55(2) of the Town and Country Planning Act 1990. These include, but are not limited to the following:

- interior alterations (except mezzanine floors which increase the floorspace of retail premises by more than 200 square metres)

- building operations which do not materially affect the external appearance of a building. The term 'materially affect' has no statutory definition, but is linked to the significance of the change which is made to a building's external appearance.
- a change in the primary use of land or buildings, where the before and after use falls within the same use class.

The applicant has provided details of the caravan/mobile home and that it meets the definition of a caravan.

The definition of "caravan" was modified by the Caravan Sites Act 1968 as:
 "Twin-unit caravan" is defined as:

"(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 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 as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

(2) For the purposes of Part I 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 subsection if its dimensions when assembled exceed any of the following limits, namely –

- a) length (exclusive of any drawbar): 20m*
- b) width: 6.8m*
- c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05m"*

In this case the submitted planning statement and drawings indicate that the length of the proposal will be 10 metres, with a width of 5.5 metres and an internal height of 3 metres.

In terms of mobility the statement details that the caravan would be placed on a swift plinth foundation system, that would not be fixed down, but rather rest on these foundations under its own weight, as show in image 1.



Image 1 swift plinth foundation system (page 3 of the planning statement)

The statement explains that this would provide a minimum ground clearance of approximately 150mm and allows for lifting straps/rig to be placed under the structure and therefore lifted by crane and placed onto a flatbed lorry. Which it claims that once assembled that it would have the structural integrity to be craned or moved as a whole unit.

The proposal would be constructed in two separate parts with the final act of assembly would be bolting the two parts together as shown by a joint line on the submitted drawings.

It is therefore considered that the mobile home is not an operational development as the proposal can be brought onto site, is not a permanent structure and can be removed from the site.

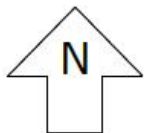
Change of Use

A caravan as defined by section 29(1) of the Caravan Sites and Control of Development Act 1960 Act and Section 13(1) and (2) of The Caravan Sites Act 1968 (amended 2006) is, by definition not a building if it conforms to the statutory definition.

Section 55(2) of the Town and Country Planning Act 1990 lists a number of operations or uses of land which are not classed as involving the development of the land, and Section 55(2)(d) states:

"the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such";

Therefore, if a caravan/mobile home is within the curtilage of the dwelling house and is incidental to the enjoyment of the house, it would not constitute development. In this case as shown in image 2



Map licence number: 100047474

Contemporary Log Living				
Client	Julie Wingfield	Project details	Project: Proposed new annex Drawing: Proposed Block Plan	 contemporary log living
Address	64 Shawbury Road, Newall Green, Wythenshawe, M23 2ZQ		number: CLL.0015 date: 20.04.2021 scale: 1:500@A3	
			version: 1 revision: 0 10m 20m	

Image 2 Proposed Site Plan Drawing

This is provided that it remains part of the same planning unit/primary use and would be used in an incidental capacity. In most cases this centres on whether the use being made of the caravan in a garden relies on the facilities to be found in the main dwelling. The submitted planning statement indicates that this would be the case as the mobile home will be ancillary to the main dwellinghouse.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approve

Article 35 Declaration

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) Approve on the basis that the proposed mobile home within the curtilage of 64 Shawbury Road, Manchester, M23 2ZF as detailed within the submitted application form, drawings and planning statement, received by the City Council as Local Planning Authority on 20 May 2021 does not constitute a material change of use and does not constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended).

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 45M

Area Team Boundary - Name: SOUTH