

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	16 th Sept 2021
Planning Development Manager authorisation:	AN	16/09/21
Admin checks / despatch completed	DB	16.09.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	16.09.2021

Application: 21/01301/LUPROP **Town / Parish:** Frinton & Walton Town Council
Applicant: Brenda Fairbrass
Address: 29 Old Road Frinton On Sea Essex
Development: Proposed use of the land for siting a mobile home for use ancillary to the main dwelling.

1. Town / Parish Council

Frinton & Walton Town Council Noted
31.08.2021

2. Consultation Responses

None received

3. Planning History

21/01301/LUPROP Proposed use of the land for siting a mobile home for use ancillary to the main dwelling. Current

4. Relevant Legislation

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Section 192(2) of the Town and Country Planning Act 1990
Section 29 of the Caravan Sites and Control of Development Act 1960

5. Officer Appraisal

Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them 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. In any other case they shall refuse the application. Applying the terms of Section 192(2) of the 1990 Act to the appeal proposal, the Council has determined the application having regard to section 55 of the 1990 Act.

Section 29 of the Caravan Sites and Control of Development Act 1960 defines a caravan as meaning "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"

In regards to twin-units, the Caravan Sites Act 1968, part 3, section 13 states

- (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.

The covering letter confirms that the twin unit would be assembled on site; there is nothing within the application which infers that it would not be possible to move the combined units by road once assembled. The proposal complies with the statutory definition of a caravan.

- (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): 20metres
 - (b) width: 6.8metres
 - (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05metres.

Both the covering letter and drawing 995538/03 details that the length of the combined unit would be a little over 11m, 5.4m wide and the overall height of living accommodation wouldn't exceed 3.03metres. The proposal complies with the statutory definitions of a caravan given in the relevant legislation.

There are some instances where the stationing of a caravan will not involve development. Under section 55(2)(d) of the 1990 Act, 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, does not involve development for the purposes of the Act. The issues to be determined are therefore whether the siting is with the curtilage of a dwelling house and whether the caravan would be used for a purpose incidental to the enjoyment of the dwelling house.

Curtilage

Permitted development rights apply within lawful curtilages of domestic or commercial and employment premises and therefore definition is of critical importance in determining whether planning permission is required for development. In most cases, the definition of a curtilage does not cause much controversy.

It is clear from evidence available to the Local Planning Authority that substantiates the extent of the domestic curtilage as shown on un-numbered ordnance survey plan.

Incidental

In general terms the use of a caravan in a residential curtilage for "purposes incidental to the enjoyment of the dwellinghouse as such" falls within the primary use of the dwelling, so it is excluded from the definition of development. The term 'incidental to the enjoyment of the dwellinghouse' has been found in planning legislation since the inception of the modern system of development control in 1948. Development within the curtilage of a dwellinghouse for any building, enclosure, swimming pool or other pool required for a purpose incidental to the enjoyment of the

dwellinghouse as such, is stated to be permitted development provided that certain criteria relating to size and location are complied with.

In accordance with *Williams v Minister of Housing and Local Government* 1967 stating that an incidental use was an incident in the life of a planning unit and therefore in accordance with *Wood v Minister of Housing* 1973, what was built under a development order became part of the existing planning unit and could have the same character as to be found within the planning unit as a whole. Therefore ancillary residential use would be classed as being incidental to the lawful use of the whole planning unit as a dwellinghouse.

6. **Recommendation**

Lawful Use Certificate Granted

7. **Reasons**

- 1 In regards to the siting of a caravan, under section 55(2)(d) of the 1990 Act, 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, does not involve development for the purposes of the Act.

8. **Informatives**

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO