



15/00048/PLNCON.

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## Planning Committee

04 April 2018



<b>Application No:</b>	15/00048/PLNCON
<b>Site Address:</b>	5 New Park Road, Ashford, TW15 1EG
<b>Breach</b>	Unauthorised Static Caravan
<b>Ward:</b>	Ashford Common
<b>Call in details:</b>	This application is being referred to the Planning Committee because of the potential consequences of making someone homeless.
<b>Case Officer:</b>	Matthew Churchill
<b>Executive Summary:</b>	<p>In March 2015, the Council received a planning complaint that a caravan was sited within the rear garden of no.5 New Park Road. The Council initially understood the caravan was to be in place temporarily whilst works were being undertaken to the property. However, the caravan has remained in place at the site since without the benefit of planning permission.</p> <p>The Council is seeking an Enforcement Notice, requiring the removal of the caravan and the unauthorised use of this part of the site as a caravan site.</p>
<b>Recommended Decision:</b>	That an Enforcement Notice be issued to secure the removal of the unauthorised caravan and change of use of the land to a caravan site. Such notice to be complied with within 6 months of it taking effect.

### **MAIN REPORT**

#### **1. Background**

- 1.1 The application site contains a detached bungalow situated on the northern side of Park Road, Ashford. In March 2015, a planning complaint was received relating to the siting of a caravan within the rear garden. Officers initially understood that the caravan was to be temporarily in place whilst works were being undertaken to the property, and that cooking and bathroom facilities were taking place in the main dwelling house.

- 1.2 However, the caravan has remained in place at the site since 2015 (some 3 years) without the benefit of planning permission. To date, the Council has not pursued planning enforcement action due to the applicant's personal circumstances.
- 1.3 The caravan is viewed to constitute a separate, self-contained residential unit, which is independent from the main dwelling house. The siting of the caravan has also resulted in an unauthorised change of use to the land from C3 (residential) to a caravan site (Sui Generis).
- 1.4 The street scene surrounding the site is predominately residential in character and contains a mixture of property types including bungalows, two storey dwellings and flats. An access road to the rear runs alongside the western boundary of the site, providing access to garages located to the rear of no's 3, 3A and 3B New Park Road. It was also evident during the site visit that there are no further examples of 'backland' style residential units or caravan sites within the immediate vicinity of the property.
- 1.5 The breach of planning control relates to the unauthorised change of use of part of the site from residential (C3) to a caravan site (Sui Generis), together with the installation of the caravan, which is in occupation as a separate residential unit.
- 1.6 An Enforcement Notice requiring the removal of the unauthorised unit in residential occupation is required to be agreed by the Planning Committee because of the potential consequences of making someone homeless.

## 2. Relevant Planning History

SP/FUL/91/71	Erection of a single-storey rear extension measuring 5.0m (16ft 4in) by 6.4m (20ft 10in) (as shown on Drawing No. J/B/01).	Grant Conditional 24.09.1991
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## 3. Details of complain and unauthorised development:

- 3.1 An unauthorised caravan has been installed within the rear garden of the property without the benefit of planning permission for a change of use of the land.

## 4. Planning Considerations

- 4.1 The main planning considerations relate to:
- Whether the caravan constitutes development and/or a change of use of the land.
  - Whether the caravan would be a separate residential unit.
  - The impact upon the character of the area.

- The impact upon the amenity of neighbouring and adjoining properties.
- 4.2 The caravan has been on site since the initial complaint was received in March 2015, Officer's were initially advised that it would exist on site whilst works were being undertaken to the property, and that cooking and bathroom facilities were taking place in the main dwelling house. However, it was evident during the Planning Enforcement Officer's most recent visit to the site, that the caravan is being occupied as a self-contained unit, which is not reliant on the main dwelling house. Indeed the caravan contains bedroom space, as well as bathroom and kitchenette facilities. Given that the caravan is occupied, and is not merely being stored at the property, the Council must establish whether operational development has occurred, and/or whether the caravan is incidental and ancillary to the main dwelling.
- 4.3 A caravan is defined within 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*".
- 4.4 At the time of the site visit in 2015, it was evident that the caravan contained wheels beneath the living area, and as such met the above definition. It was not possible to observe the area beneath the caravan during a recent site visit (05 March 2018) as only the top of the caravan was visible (when viewed from outside the site). However, in any event, even if the wheels have been removed, the Council maintains the view that the caravan is a mobile unit, capable of transportation as defined above, as it would be possible to re-incorporate wheels/transport the caravan, at a later stage.
- 4.5 The General Permitted Development Order (2015) states that a 'caravan site' "*means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed*". Given that the property contains a caravan which is stationed and is in habitable occupation, it therefore follows that the area of the property in which the caravan is situated, is a caravan site as defined within the General Permitted Development Order (2015).
- 4.6 Under *Schedule 2, Part 5, Class A of the General Permitted Development Order 2015*, a caravan site requires planning permission if situated within the curtilage of a dwelling house. The Council holds no records of planning permission being granted at the property for a change of use to a caravan site, and the caravan is situated within the curtilage (grounds) of a dwelling house. As such the caravan does not benefit from planning permission.
- 4.7 Section 55 of the Town and Country Planning Act 1990 states "*development means the carrying out of building, engineering, mining or other operations in, on, over or under land making any material change in the use of any buildings or other land*". It is considered that the installation of an occupied caravan would constitute a material change in the use of the

land. However, given the mobile nature of the caravan, it is not considered that a building operation has occurred as it would be possible to transport the caravan to another location. The breach of planning control therefore relates to the change of use of the land.

4.8 Under *Schedule 2, Part 4 of the General Permitted Development Order 2015*, it is possible to install temporary buildings and structures without the requirement of planning permission. However, this is on the basis that the buildings and structures are required temporarily in connection with, and for the duration of operations being, or to be carried out on the land, or adjoining land. The property is in C3 use with no further planning permissions on site other than planning consent for a single storey rear extension in granted in 1991 (91/00071/FUL). There are no further records of authorised operations being carried out at the property and the caravan has remained in place since 2015. It cannot therefore be reasonably argued that the caravan is required temporarily for operations at the site or an adjoining the site. Additionally, the GPDO further states that the temporary use of land as a caravan site cannot constitute permitted development.

4.9 Whilst the Council has not had sight of any plans, and cannot assess the caravan against dimension criteria set out within permitted development legislation, it is not considered that the caravan could be considered to constitute an outbuilding, particularly as is not viewed to be a building operation. In any event the caravan would not meet the requirements of *Schedule 2, Part 1, Class E of the General Permitted Development Order 2015*, as given the occupation of the caravan as a separate residential unit, it would not constitute an outbuilding that is required for a purpose that is incidental to the enjoyment of the main dwelling house.

4.10 In terms of the character of the area, the street scene surrounding the application site predominantly contains residential dwellings, with bungalows, two storey dwellings and flats present within the immediate vicinity. There are also a number of garages present to the rear of neighbouring properties, although there are no examples of further caravan sites. Whilst the caravan is not visible from the highway of New Park Road, it does have a visual impact upon neighbouring and adjoining properties. The introduction of a caravan site within the rear of the property results in a 'backland' style development, with frontage activity to the rear of the site that has an incongruous appearance, which is not in keeping with the surrounding building pattern.

4.11 Council policy EN1 states the Council will require a high standard in the design and layout of new development. Proposals for new development will need demonstrate they will create buildings and places that are attractive with their own identity and should respect and make a positive contribution to the street scene in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining properties and land.

4.12 Given that there are no further caravan sites within the immediate vicinity, and as there are no further 'backland' style developments within the

surrounding street scene, it is not considered that the caravan is in keeping with the character of the area, and does not pay due regard to the residential layout, more traditional materials and characteristics of adjoining properties and land. The caravan site is therefore contrary to the objectives of policy EN1, and a caravan site in this location is unacceptable in design terms. The Councils SPD on the *Design of Residential Extensions and New Residential Development* (April 2011), also states plots should normally be similar in size and shape to other plots in the street. The existing residential curtilage subdivided into a caravan site is not similar size to the surrounding plots and is contrary to the above guidance.

- 4.13 In regards to amenity, the caravan was observed from the rear of the site and it was noted that windows were situated within the eastern elevation of the caravan, which were located above significantly above fence level (some 1.8 metres in height). As a result the windows are considered to provide unacceptable opportunities for overlooking into the rear garden area of no.7 New Park Road. As such, in addition to being out of keeping with the surrounding locality, the caravan site would also have an adverse impact upon privacy of the adjacent dwelling. However, given the scale and height of the caravan, it is not viewed that the caravan has an adverse impact upon light.
- 4.14 Notwithstanding design concerns, the Council does not have a general policy relating to caravan sites. However, Policy HO6 relates to sites for Gypsies and Travellers and Policy HO7 relates to sites for Travelling Showpeople. The Council is not aware of a reason for either policy to be applicable in this instance.
- 4.15 The caravan is already in use as an unauthorised residential unit on an unauthorised caravan site and provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14, are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control. In view of the need to enforce planning law for the public good, it is not considered that this would contravene the Human Rights Act. Given the harm caused to the character of the area and the amenity of surrounding neighbours due to opportunities for overlooking, it is considered to be expedient to take enforcement action against this use. If there are children occupying the caravan the Council will make further enquiries.
- 4.16 It is therefore recommended that enforcement action be taken to :-
- Secure the removal of this unauthorised caravan and change of use of the land. However, regard must also be had to the need to give sufficient time for compliance and for the existing occupants to find alternative accommodation. A six month period is considered to be reasonable.

## **5.0**    Recommendation

### **5.1**    That an Enforcement Notice be issued requiring the following steps: -

Remove the unauthorised caravan from the site

Such Notice to be complied with within 6 months of it taking effect.

### Reasons for Serving of Notice

### **5.2**    The existing caravan site has an unacceptable impact upon the character of the area, and detracts from the surrounding building pattern. The scheme introduces an incongruous feature within the surrounding area and provides opportunities for unacceptable overlooking and loss of privacy into a neighbouring garden. The scheme is therefore contrary to policy EN1 of the Core Strategy and Policies DPD 2009, and the Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011.