

Committee Date	12.11.2020	
Address	Land Adjacent 98 Grovelands Road Ticehurst Close Orpington	
Application Number	20/00342/PLUD	Officer - Nicholas Trower
Ward	Cray Valley West	
Proposal	Installation of a toilet hut serving the nearby bus stand for the use by bus staff LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED)	
Applicant	Agent	
London Bus Services Limited	Mr Ian Gilbert	
Palestra 197 Blackfriars Road London SE1 8NJ	5 Endeavour Square 9th Floor Westfield Avenue London E20 1JN	
Reason for referral to committee	Controversial	Councillor call in No

RECOMMENDATION	Proposed Use/Development is Lawful
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 17</p>
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Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Grass verge adjacent to residential dwelling	0

Proposed	Toilet to serve nearby bus stand for use by bus staff	2.0sqm

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	0	0
Disabled car spaces	0	0	0
Cycle	0	0	0

Electric car charging points	0
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Representation summary	Neighbour letters issued – 06.02.2020	
Total number of responses	1	
Number in support	0	
Number of objections	1	

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 1.1 The proposed development falls within the scope of Class C of Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

2. LOCATION

- 2.1 The application site comprises a strip of land to the west of Ticehurst Close which sits adjacent to No.98 Grovelands Road. The toilet hut will be situated within 50m of the bus stand it will serve and the land does not lie within any area of special designation.

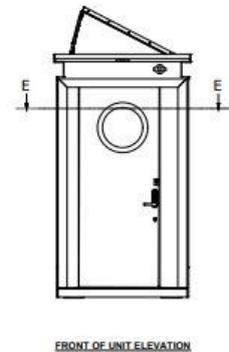
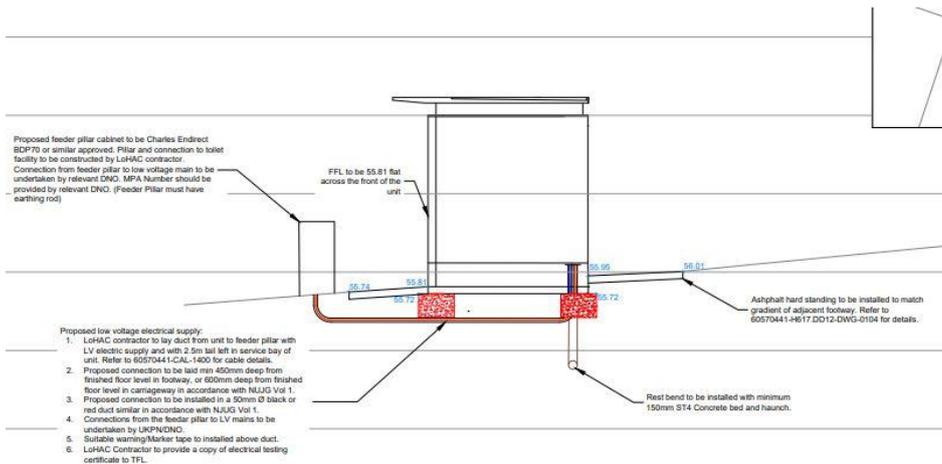
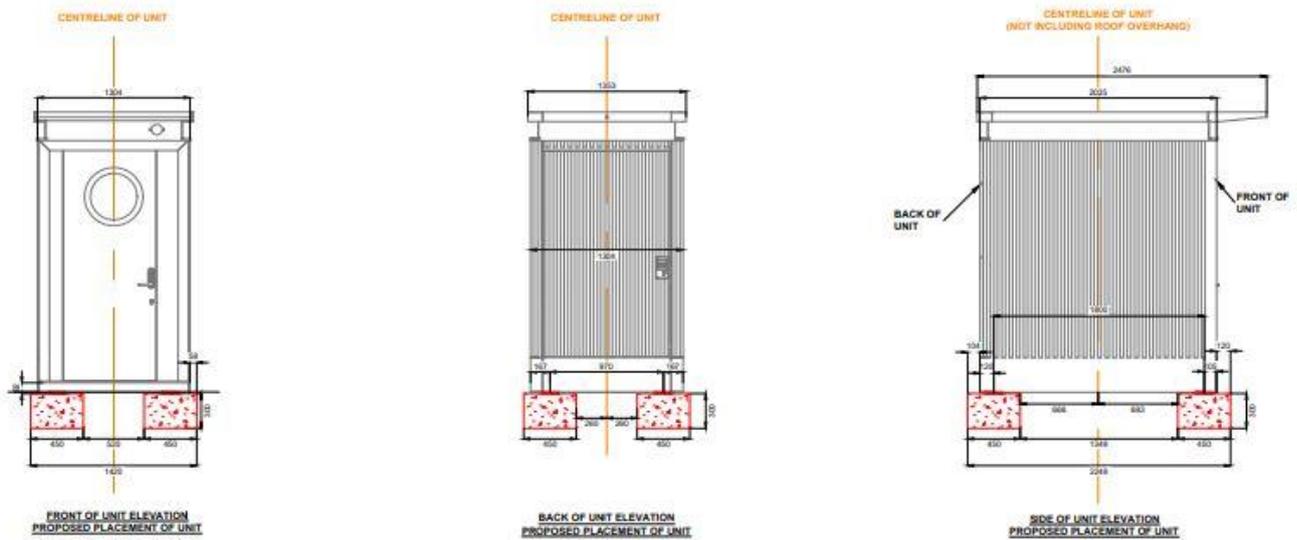
2.2 Site Location Plan:



3. PROPOSAL

- 3.1 The application seeks an existing lawful development certificate for the installation of a toilet hut to serve bus staff of the nearby bus stand.
- 3.2 The toilet hut will measure 1.3m in width, 2.0m in depth and 2.4m in height. The hut will have steel cladding on the sides with a solar panelled roof and laminated safety glass window to the door. There is currently a temporary hut on site which will be replaced with the structure proposed under this lawful development certificate.

3.3 Proposed elevations:



4. RELEVANT PLANNING HISTORY

4.1 There is no recent or relevant planning history at this site.

5. CONSULTATION SUMMARY

5.1 Neighbouring Occupiers

- Appearance and visual amenity - having a toilet outside next to my property is unpleasant and unsightly.
- Layout and density of building protruding high over the fence line with the addition of the solar panel making it worse.

- Noise and disturbance resulting from toilet use and when the cleaners come with their truck to operate the septic machinery.
- Smells resulting from human waste and hazardous cleaning materials.
- Loss of privacy and overlooking due to the land slope and where the truck parks.
- Adequacy of parking/loading/turning the cleaner's vehicle will have to park on the pavement.
- Highway safety issue due to narrowing of the road and restricted road access by traffic generated by the nearby school.
- Loss of trees and landscaping being ruined due to parking on the verges.
- Misleading and secretive. Proposals were not given to residents prior to October 2018 when the temporary toilet was placed.
- I requested a copy of the consultation letter that was allegedly sent to residents regarding this. There was none.
- The cleaning contractor arrives at 6am and we used to get rudely awakened by the septic truck noise. I complained to TfL and Bromley Council to no avail.
- I wrote a letter of complaint to the Director of Environment at Bromley Council. This was passed to a counterpart at TfL who had no idea I've been complaining for over a year.
- Future building foundations and drainage could be restricted or become unsafe because of the toilet's location.
- Maintenance personnel have been carrying out their duties before 9AM making terrible noise.
- People have been loitering by the toilet drinking alcohol, making noise and leaving their waste. The toilet attendant does not clean outside of the toilet.
- Toilet cleaner visited at 6:45AM switching on the loud machine that they use to service the toilet.
- The toilet is causing anxiety and leading to sleepless nights.

5.2 Please note that the full text of all representations received can be read in full on the Council's website.

6. POLICIES AND GUIDANCE

6.1 The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Class C of Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and specifically whether any limitations/conditions of the Order are infringed.

7. ASSESSMENT

7.1 Class C (c) permits development by transport undertakers required for the purposes of the carrying on of any tramway or road transport undertaking consisting of the installation of telephone cables and apparatus, huts, stop posts and signs required in connection with the operation of public service vehicles.

7.2 In this instance, the proposed toilet hut would fall within the scope of Class C (c) and is considered to be permitted development for the following reasons:

- 7.3 The applicant is considered to be a transport undertaker.
- 7.3.1 London Bus Services Limited runs the bus service whose staff will use the toilet hut. London Bus Services Limited is a subsidiary company that is wholly owned by TfL who are a transport undertaker. Legal advice was provided by the applicants setting out that:
- 7.3.2 *"...the fact that London Bus Services Limited itself if it were a standalone body would not be a transport undertaker does not prevent TfL as a transport undertaker exercising its road transport PD rights through London Bus Services Limited, its wholly owned subsidiary company".*
- 7.4 The proposed toilet hut is considered to be a hut as allowed under the Order.
- 7.4.1 The application is accompanied by an opinion from Gregory Jones QC dated 31 January 2013 in connection with similar structures that have been located in London.
- 7.4.2 The Council did obtain an opinion from Planning Counsel in respect of that opinion in connection with similar structures that at the time had been placed on the highway in the Borough. Those structures were apparently resting on the land without any further attachment. Counsel advised:
- 7.4.3 *"10. I have read the Opinion of Gregory Jones QC dated 31 January 2013. This relates to previous structures. He reached the view that the structures were huts and so fell to be characterised as PD.*
- 7.4.4 *11. What do I make of his Opinion? I respect his view, although I am less persuaded by his argument at para 11 which draws on internet research as to advertisements of "toilet huts". I do not derive much assistance from what manufacturers and sellers of toilet blocks choose to call their wares. Counsel has drawn attention to the dictionary definition. This is relevant. Some assistance can be derived from it, but I do not find this definition determinative in a planning context.*
- 7.4.5 *12. The Council is not bound by this Opinion. As I have said, judging whether a given structure can be convincingly characterised as a hut is a matter of planning judgment. There is no hard-edged "legal" answer that a barrister can give.*
- 7.4.6 *13. More than that, it seems to me that there is unlikely to be a sweeping or over-arching "answer". Any decision is likely to be fact-sensitive revolving around its size and appearance. Aesthetic considerations including the ridge height, type of materials used and the extent to which it is perceived as a hut rather than a more "formal" building are likely to be material.....*
- 7.4.7 *15. My own personal view, as a humble barrister and amateur planner, is that the judgment is finely balanced and it can be cogently argued both ways. I agree that, as a matter of principle, a modestly sized toilet block is capable of being a hut for the purposes of PD but whether a given structure is will be highly fact sensitive. I*

have seen good quality colour photographs of the structures. They appear cleanly rectangular and metallic. If you put a gun to my head, I would say that they are not huts.”

- 7.4.8 The current proposal is for a slightly different proposal in that there is a higher degree of attachment to the land. TfL have also referred to a number of other London Boroughs that have accepted similar proposals as permitted development.
- 7.4.9 Whether the proposed structure can be characterised as a hut is a matter of planning judgment. In this instance the proposed toilet hut will have steel cladding on the sides with a solar panelled roof and laminated safety glass window to the door. It would be a simple structure and will be permanently fixed in place with foul water drainage and a new water supply. Given its size, design and the proposed materials it is considered that the proposed structure could be considered to be a hut as allowed under the Order.
- 7.5 The proposed toilet hut would only provide facilities to bus drivers and would therefore be used for the purposes of the carrying on of any road transport undertaking.

8. CONCLUSION

- 8.1 The proposed development falls within the scope of Class C of Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 8.3 It is therefore considered that the certificate be granted.

RECOMMENDATION: Proposed Use/Development is Lawful