

Committee Date	8 th February 2024	
Address	5 Leaves Green Crescent Keston BR2 6DN	
Application Number	23/02241/PLUD	Officer – Joanna Wu
Ward	Darwin	
Proposal	Siting of a caravan/ mobile home within the rear garden area of the existing property for purposes incidental to the enjoyment of the dwellinghouse as such (Lawful Development Certificate Proposed)	
Applicant	Agent	
Mr Callum Harwood	Mr Irfan Tailor	
5 Leaves Green Crescent Bromley Keston BR2 6DN	Sufair Ltd 36 Wolsey Crescent New Addington London CR0 0PE	
Reason for referral to committee	Deferred	Councillor call in Yes – Cllr Andrews Call-in reasons: - Some uncertainty with respect to whether or not the caravan/mobile home constitutes development. - Concerns that it would be inappropriate to place a caravan/mobile home on land within the Green Belt.

RECOMMENDATION	Proposed Use/ Development is Lawful
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Noise Contours Biggin Hill Safeguarding Area Green Belt London City Airport Safeguarding Smoke Control Technical Sites Biggin Hill</p>

Representation summary	Neighbour notification letters sent 27.10.2022	
Total number of responses		1
Number in support		0
Number of objections		1

1. REPORT UPDATE

- 1.1 This application was originally discussed at Planning Sub-Committee No. 4 (11.01.24) but was deferred as it was requested that officers should provide further information, especially some details on relevant law/ appeal cases.
- 1.2 The relevant law/ appeal cases are summarised in Appendix C. Two allowed appeal decisions have been included. As part of these appeal decisions, the Inspectors assessed whether a caravan structure can be considered to be ancillary to the main dwelling. Three tests were used in their assessments of ancillary use, i.e. the construction, size and mobility of the caravans.
- 1.3 Also, for members' information, an extract of caravan definition as stated in the Caravan Site Act (section 29(1)) and the extract of The Caravan Sites Act 1968 Section 13 are also attached in Appendix D. The legislation states that "caravan" means any structure designed or adopted 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. In the Caravan Sites Act 1968, it further clarifies that the caravan should be composed of not more than two sections separately constructed and designed to be assembled on a site. As highlighted in the applicants' supporting statement, the caravan does not consist of more than 2 sections as it is a single structure which would be towed onto the site behind a Range Rover (or similar) style vehicle.
- 1.4 Full details of the relevant legislation can be found here:
Caravan Sites and Control of Development Act 1960
<https://www.legislation.gov.uk/ukpga/Eliz2/8-9/62>
- The Caravan Sites Act 1968
<https://www.legislation.gov.uk/ukpga/1968/52>
- 1.5 In conclusion, the review of these appeal cases has not provided any additional information that would warrant a change in the recommendation for the Certificate of Lawfulness to be granted for this proposal.
- 1.6 Members should be aware that these appeal cases are only for information and reference only. It is advised that members should review this proposal based on the supporting documents submitted in this LDC application.

2. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal is not classified as operational development and does not represent a material change of use of the residential land.

- An identical LDC application (planning ref: 22/04204/PLUD) was previously refused at the planning sub-committee in April 2023 and this application is currently at the appeal stage. The applicants have provided some additional information to address the reasons for refusal. After assessing this information, the Council has decided that the appeal case will not be contested.
- The existing TPO tree is not part of this application assessment as any works to this TPO tree due to the caravan structure will be subject to a separate TPO consent.

3. LOCATION

- 3.1 The application site hosts a two storey semi-detached house located on the western side of Leaves Green Crescent, Keston. The property is located within an area designated as Green Belt land.
- 3.2 As shown in Figure 1, the curtilage of No.5 extends to include a large parcel of land to the rear. This part of the application site, where the caravan/ mobile home would be located, had its permitted development rights for any buildings, structures, alterations walls or fence removed in 1994 (planning ref: 94/0028/FUL).
- 3.3 It is noted that in October 2023, a Tree Preservation Order (TPO: 2874) was put in place for a tree on the site after the submission of this LDC application. This TPO oak tree is located to the east side of the proposed location for the caravan.

Fig 1: Site plan (Location of caravan/ mobile home)

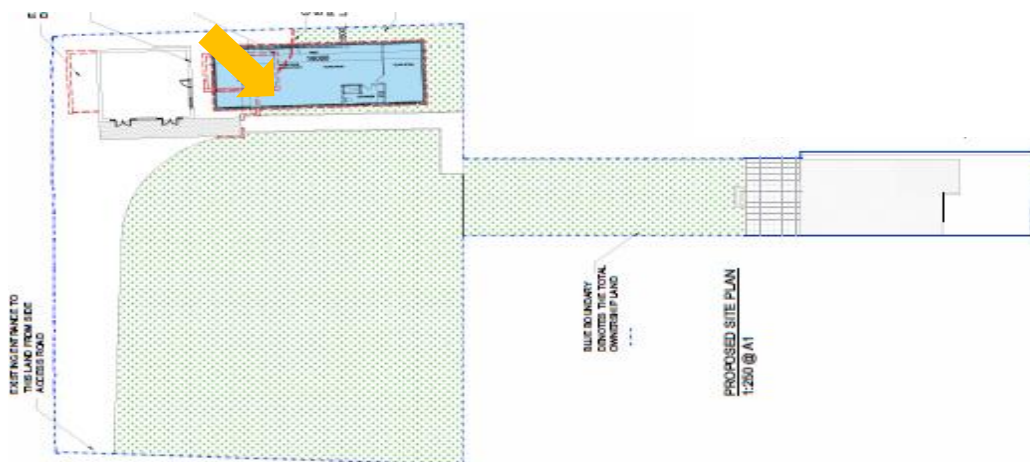


Fig 2. Location of TPO 2874 tree

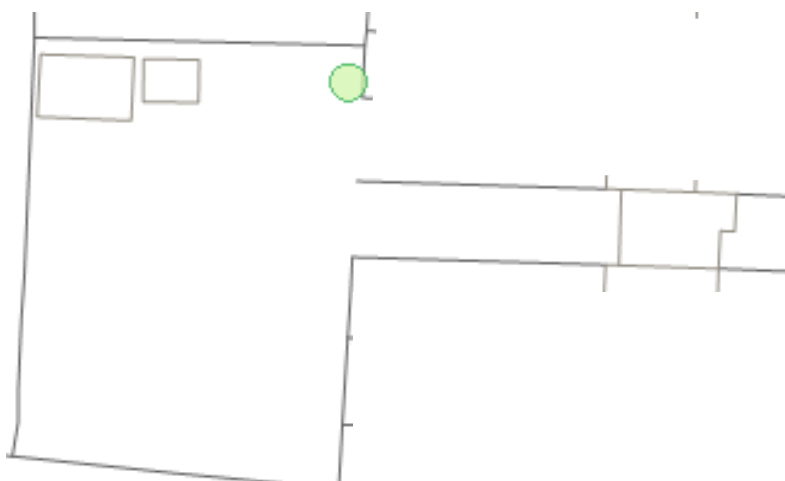


Photo 1: Existing garden (view from the main house)



Photo 2: Existing garden (view from the garage)



4. PROPOSAL

- 4.1 The application seeks a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 (as amended) for the siting of a caravan/mobile home.
- 4.2 The proposed caravan/ mobile home would measure 18m in length and 6.7m in width (maximum) and would have a total height of 3m with an eaves height of 2.4m. The proposed mobile home would be sited in the rear garden and would provide a hobby room (music/ study), computer/ digital mixing area, a bathroom and a store room.

Fig 3: Proposed floorplan and roof plan

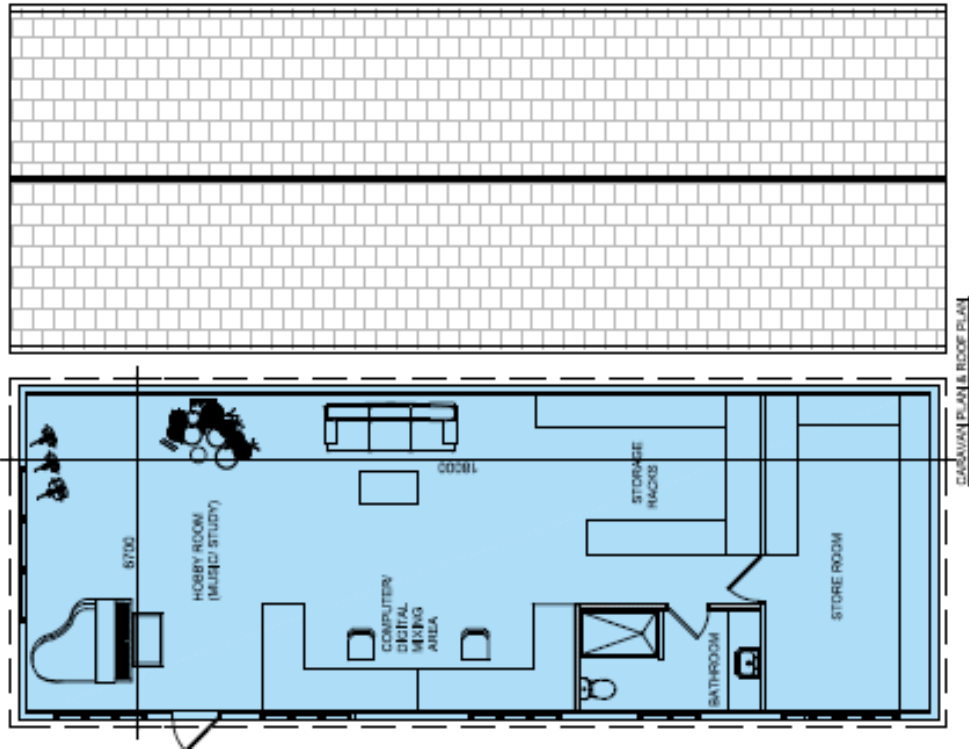
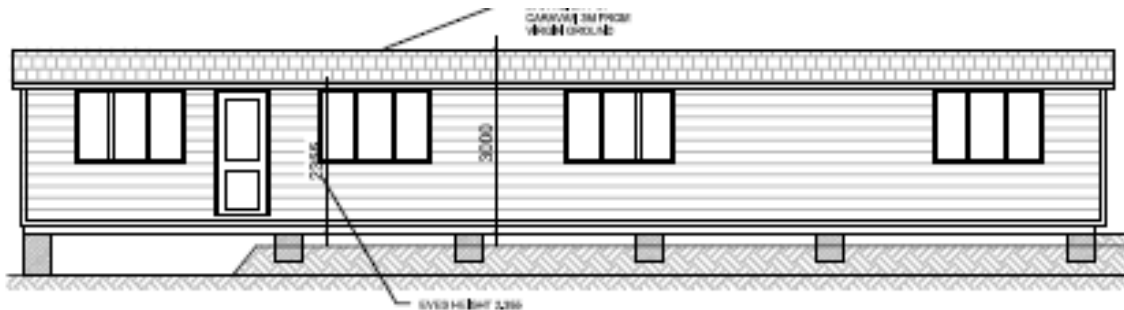
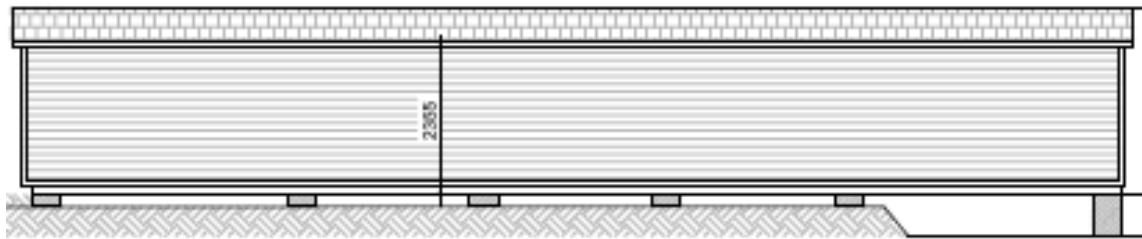


Fig 4: Proposed elevation plans

South elevation (front elevation)



North elevation (rear elevation)



- 4.3 An identical LDC application (planning ref: 22/04204/PLUD) was refused in April 2023. For Members' information, that application is currently at the appeal stage (Appeal ref: APP/G5180/X/23/3323690). The reason for refusal was:

“In light of the failure by the speaker on behalf of the applicant to confirm the applicant has a musical and computer/digital mixing hobby and the size of the caravan (absolutely and relative to the main dwelling), it is not considered that the caravan would be incidental to the enjoyment of the main dwellinghouse as such. Its siting would therefore be unlawful.”

- 4.4 In this current scheme, the applicants have now provided additional information to address the above reason for refusal. A full copy of this supporting statement is attached in Appendix A. In particular, the applicants have provided further clarification and justification for the proposed use of the caravan (bullet point 5) and the size of the caravan relative to the main dwellinghouse and in absolute terms (bullet point 7).
- 4.5 After assessing the above information, the Council has resolved not to contest the appeal and confirmed this position to the Planning Inspectorate. A copy of the Council’s appeal statement is attached in this report (Appendix B).

5. Comments from Local Residents and Groups

- 5.1 Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

Objections

- The proposal would be very close to the edge of the neighbouring land;
- Loss of privacy
- The mobile home/ caravan would constitute inappropriate development in the Green Belt;
- Reduces the availability of sunlight to immediately adjacent garden.

6. RELEVANT PLANNING HISTORY

- 6.1 The relevant planning history relating to the application site is summarised as follows:
- 6.2 94/00028/FUL – Change of use from grazing land to residential garden and retention of 2 pigeon lofts and storage shed and aviary (RETROSPECTIVE) – 07.03.1994
- 6.3 88/01039/FUL - Single storey rear extension - (Permitted) 12.05.1988
- 6.4 91/01425/FUL - Single storey side/ rear/ front extension - (Permitted) 05.08.1991
- 6.5 19/05262/FULL6 - Extension to the eastern end of an existing single storey detached double garage to incorporate a study and playroom - (Refused) 09.03.2020
- 6.6 21/05110/PLUD - Single storey outbuilding LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) - (Lawful) 10.02.2022
- 6.7 21/05172/PLUD - Erection of an outbuilding comprising home office and gym (Lawful Development Certificate Proposed) - (Appeal allowed)
- 6.8 22/04204/PLUD - Siting of a caravan/ mobile home within the rear garden area of the existing property for purposes incidental to the enjoyment of the dwellinghouse as

such. LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) - (Not lawful)
26.04.2023

Reason for refusal:

"In light of the failure by the speaker on behalf of the applicant to confirm the applicant has a musical and computer/digital mixing hobby and the size of the caravan (absolutely and relative to the main dwelling), it is not considered that the caravan would be incidental to the enjoyment of the main dwellinghouse as such. Its siting would therefore be unlawful."

- 6.9 23/01539/PLUD – Hip to gable loft conversion including rear dormer with two front roof lights and eight front solar panels (three additional and rearrangement of five existing solar panels) LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) - (Lawful)
15.06.2023

7. PLANNING ASSESSMENT

- 7.1 Given that the proposal is identical to the previous refusal scheme, Members should be aware that the officers' assessment in this section is similar to that presented in the previous report. It is advised that Members should read this section in conjunction with the Council's Appeal Statement (Appendix B).

The Meaning of Development

- 7.2 According to section 55 (1) of the Town and Country Planning Act 1990 "development, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".
- 7.3 According to section 55 (2) (d) of the Town and Country Planning Act 1990 "the use of any buildings or other land within the curtilage of a dwellinghouse for the purposes incidental to the enjoyment of the dwellinghouse, shall not be taken to involve development of the land".
- 7.4 Legal advice was sought on whether the proposed caravan location is part of the curtilage of No. 5. This confirms that the land where the caravan/mobile home is proposed to be located is under the same ownership as No 5 and can be directly accessed from the rear of No 5 as there is no boundary treatment between the two plots. It is therefore considered that it is within the curtilage of No. 5.

The definition of a caravan/ mobile home

- 7.5 The definition of a caravan, which includes a mobile home, as outlined within section 29(1) of the Caravan Sites and Control of Development Act 1960 states that a caravan is 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, but does not include (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent.

7.6 The Caravan Sites Act 1968 Section 13 - definition of twin unit caravans as amended by the Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 provides as follows:

- (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 1 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 1 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): 20 metres;
 - (b) width: 6.8 metres;
 - (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres."

7.7 In order to assess whether a caravan is permitted at this location, two criteria have to be considered:

- whether the proposal is an operational development
- whether the proposal comprises a material change of use of the land

The proposal would not comprise operational development

7.8 The applicants confirm that the caravan would be towed in with the help of a Land Rover or similar vehicle and placed in the desired location. This caravan will remain movable, which falls within the definition of a caravan as stated within the 1960 Caravan Site and Control of Development Act and Caravan Sites Act 1968.

7.9 The caravan would be stationed on padstones and jacks. The supports (jacks and padstones) will be taller at some locations where the ground level is lower as shown in Figure 3. It would be connected to utilities such as electric, water etc but these could be easily disconnected. The details show that the caravan would measure approximately 18m in length and 6.7m in width (maximum) and would have a total height of 3m with an eaves height of 2.4m (3m from the finished floor to the highest point of the ceiling).

- 7.10 The application drawings and accompanying planning statement indicate that the proposed unit would comply with the dimensions set out in the 1968 Act and that it could be lawfully transportable to/from the site by towing by suitable vehicle. It is therefore accepted that the caravan/ mobile home would fall within the definition of a caravan, provided that the construction and the required measurements stated in the application are met.
- 7.11 However, it should be noted that the continued mobility of the structure is essential to its definition as a caravan. If that is lost due to development carried out upon the structure, then it will cease to be a caravan.
- 7.12 The submitted drawings show that the proposed caravan/ mobile home would not be permanently fixed to the ground and could be easily removed from the site. The proposal, therefore, would not be considered to be a "building".
- 7.13 Having considered all the above, the proposal would not be classified as operational development under section 55 of the Act, given that the mobile home would continue to be a mobile and removable structure (i.e. by definition it is a caravan).

The proposal would not comprise a material change of use of the land

- 7.14 With regards to whether this part of the land is within the curtilage of the dwellinghouse, the case officer has carried out a site visit and has confirmed that the proposed location of the caravan is part of the curtilage of No. 5.
- 7.15 The caravan by its nature would be physically separated from the dwellinghouse and it could be accessed externally and separately from the dwellinghouse. However, the applicants have confirmed that the caravan would be used by the members and guests of the main dwelling and the electricity and plumbing etc is connected to the main dwelling supply. Therefore, the proposal would be functionally connected to and subservient to the dwellinghouse. It is accepted that there is a clear functional link between the dwellinghouse and the caravan. The proposal, therefore, would be incidental to the use of the dwellinghouse.
- 7.16 If, when sited, the caravan was not actually used for incidental purposes, the certificate of lawfulness would not prevent the Council from taking enforcement action. This is because the certificate is expressly limited to a caravan used for incidental purposes and does not cover any other use.

Location of TPO 2874 tree in relation to the proposed caravan

- 7.17 With regards to the existing TPO tree, any works to this TPO tree, e.g. such as tree pruning, would require the applicants to apply for a TPO consent which would be assessed separately by the Council.
- 7.18 It is noted that in the supporting statement submitted in June 2023, the applicants state that "if the tree cannot be retained, the applicants is happy to plant a replacement tree on site." However, since the oak tree has now been protected and no detailed works to the tree have been included as part of the LDC application, this TPO tree assessment will need to be assessed separately.

- 7.19 Nevertheless, the tree officer has been consulted and has not raised any objections to the LDC application. Given that the proposal does not require any excavations on site, it is the tree officer's view that the caravan structure will not directly impact the protected tree.
- 7.20 However, it is noted that the facilitation of the caravan structure on the land next to the tree could potentially put the canopy at risk of future pruning pressure. Therefore, should any work be considered necessary on the tree, this will need to comply with the separate TPO application consent process for further assessment. It is advised that an informative should be imposed to ensure that the applicant is aware that if any pruning is planned, that a separate TPO application would be required.
- 7.21 As any proposed tree works will be subject to further additional assessment as part of the TPO consent, this is not covered as part of this LDC application consideration.

8. CONCLUSION

- 8.1 The caravan/ mobile home is not classified as a permanent structure fixed to the ground as it could be moved or removed easily from the site if necessary and it would provide incidental space to the main house without providing a new, separate dwelling severed from the main house. In these circumstances and for these reasons the proposal is not regarded as operational development and doesn't represent a material change of use of the residential curtilage land.
- 8.2 In conclusion, the review of the relevant Appeal cases has not provided any additional information that would warrant a change in the recommendation for the Certificate of Lawfulness to be granted for this proposal.
- 8.3 Therefore the proposal would comprise lawful development under section 192 of the Town and Country Planning Act 1990, and it is recommended that a Lawful Development Certificate is granted.
- 8.4 Background papers referred to during production of this report comprise all correspondence on the file, excluding exempt information.

Recommendation: CERTIFICATE BE GRANTED

The siting the caravan would not amount to operational development and use of the caravan would not result in a material change of use of the land by virtue of Section 55(2)(d) of the Town and Country Planning Act 1990.

Informative:

The applicants should be aware that a separate TPO consent application should be submitted if there are any potential impacts on the protected oak tree (TPO 2874). If the applicant requires to prune the tree, details of this should be specified in a separate TPO consent application for further assessment.

Encl.:

Appendix A – Statement by applicant

Appendix B – The Council's Appeal Statement for planning ref: 22/04204/PLUD (Appeal ref: APP/G5180/X/23/3323690)

Appendix C – Appeal Cases Study

Appendix D – A copy of section 29(1) of the Caravan Sites and Control of Development Act 1960 (c. 62) and section 13 of Caravan Sites Act 1968