DELEGATED FILE NOTE

CASE OFFICER: …Tom Donovan……

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
18/00620/LDCP	Stationing of a mobile home within the residential curtilage of 114 Old Hale Way.	114 Old Hale Way Hitchin Hertfordshire SG5 1XT

Submitted Plan Nos

1.0 Policies

1.1 --Caravan Sites and Control of Development Act 1960;
--Caravan Sites Act 1968;
--Caravan Sites Act 1968 and Social Landlords (Permissable Additional Purposes) (England) Order 2006

2.0 **Site History**

2.1 Planning permission was recently refused for the erection of an iHus outbuilding in the rear garden of no.114 Old Hale Way.

3.0 **Representations**

3.1 No consultation required.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 114 Old Hale Way is a detached two storey residential property. It has not been extended in any significant manner.

4.2 **Proposal**

4.2.1 Erection of pre-fabricated timber annexe in rear garden for use as a residential annexe to the main house. The building itself would be situated in the rear garden

of the property and would measure 6.3m in width, 12m in length and 3.3m in height. It would provide two bedrooms, kitchen, bathroom, utility and living area.

4.2.2 The application indicates that the structure would come under the definition of a 'caravan' as per the 1968 Caravan Sites Act. As such, the applicant is asserting that this is not development requiring planning permission.

4.3 **Key Issues**

4.3.1 The key issue for consideration is whether the proposed development would a) constitute a caravan as per the definition contained within the 1960 and 1968 Acts; and b) whether it would satisfy the three tests as detailed in Section 29 of the 1960 Act, Section 13 of the 1968 Act (and as amended by the 2006 Act).

4.3.2 Can the proposed structure be legally defined as a 'caravan'?
For a structure to be defined as a 'caravan' it must first accord with the definition found in Section 29 of the Caravan Sites Act 1968 as amended in 2006.

In terms of measurements it must not exceed:

1.0 Length (excluding any drawbar) 20m;
2.0 Width 6.8m;
3.0 Overall height (internally, from the floor at its lowest to the ceiling at its highest) 3.05m.

It must also comply with the following:

1.0 It is a structure, not a building;
2.0 The structure is fit for human habitation;
3.0 The structure must be capable of being moved from place to place, including around its site once assembled.

4.3.3 In the case of a twin unit caravan, (i.e. one that is constructed in two parts), the fact that the unit cannot be lawfully moved on a highway does not mean that it falls outside of the definition of a 'caravan' found in the Act.

4.3.4 A twin-unit caravan is defined as one that *"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 *"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"*.

4.3.5 In order to establish whether a twin unit caravan meets the definition of a caravan it therefore must pass the three tests which comprise 'the size test', 'the construction test', and 'the mobility test'.

4.3.6 Would the proposal satisfy the 'three tests'?
The three tests comprise the following:

2.0 The size test;
3.0 The construction test;
4.0 The mobility test.

I will now address each in turn.

4.3.7 *The size test*
The proposed iHus structure would not exceed the dimensions as set out in Section 29 of the Caravan Sites Act 1968 as amended in 2006. (See para. 4.3.3). The proposal would **pass the size test**.

4.3.8 *The construction test*
For the proposal to meet the construction test it must be capable of being constructed on the site with the final act of assembly being the joining together of the two distinct sections. It has been borne out through case law that there is no requirement for the creation of the two sections to be undertaken away from the land. Thus, the two sections are able to be constructed independently within the site provided that the final act of assembly is their joining together.

4.3.9 Information submitted within the application indicates that the structure would be constructed as per the requirements above and therefore the proposal would **pass the construction test.**

4.3.10 *The mobility test*
The mobility test merely poses the question as to whether the physically completed structure could be transported in one piece by road, by being towed or transported. Case law makes it clear that a lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network, but the mobile home should possess the necessary structural qualities to permit its movement in one piece without structural damage.

4.3.11 The applicant has employed SEJC Consulting Engineers to assess the feasibility of lifting the whole structure from the site and enable its transfer elsewhere. The document they have provided indicates that the structure could indeed be safely lifted from the site in one section and transferred by road.

4.3.12 Information submitted within the application indicates that the structure could be lifted from the site and transferred elsewhere by road. The proposal would therefore **pass the mobility test**.

4.4 Conclusion

4.4.1 Based on the information contained within the application I am satisfied that the proposed iHus structure would, on the balance of probabilities, meet the requirements of the Act and can be legally defined as a caravan. The siting of the proposed structure would not therefore constitute development requiring planning permission nor would the proposal involve a material change of use of land.

5.0 Recommendation

5.1 The erection of the iHus structure would meet the requirements of Section 29 of the Caravan Sites Act 1968 and as amended 2006. The siting of the proposed structure would therefore not comprise development requiring planning permission. Moreover, the proposal would not involve a material change of use of land.

1. The proposed siting of the iHus structure or its residential use in association with no.114 Old Hale Way would not constitute development as defined by Section 55 of the Town and Country Planning Act 1990.

Signed  Richard Tiffin Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Date: 16 April 2018	