

**DCSE2008/0119/O - SITING OF BUNGALOW IN  
REPLACEMENT OF EXISTING RESIDENTIAL  
CARAVAN AT LAND AT TREWAUGH FARM, THREE  
ASHES, HEREFORDSHIRE, HR2 8LY**

**For: Mr M Williams per Paul Smith Associates, 19 St  
Martins Street, Hereford, HR2 7RD**

**Date Received: 17th January 2008    Ward: Llangarron    Grid Ref: 51153, 22338**

**Expiry Date: 13th March 2008**

Local Member:    Councillor Mrs J Hyde

### **Introduction**

This application was considered by the Southern Area Planning Sub-Committee at its meeting on 5<sup>th</sup> March 2008 when Members resolved to grant planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

At its meeting on 5<sup>th</sup> March 2008 the Southern Area Planning Sub-Committee was recommended to refuse this application for the following reason:

- 1. Having regard to policy H.7 of the Herefordshire Unitary Development Plan 2007 the local planning authority considers the proposal is unacceptable in that it is not for the replacement of a building with established residential use rights. Furthermore, the proposed replacement of the caravan for a dwelling would lead to a substantial increase in its size and scale and as such the resultant scheme could not be considered comparable.**

In the debate the Members of the Area Sub-Committee gave weight to the existence of the lawful development certificate for a caravan on the site, which could be replaced by another temporary structure such as a "log cabin" style caravan, and the suggestion put forward by the agent that the occupant of the caravan would be able to assist in the running of the farm. Members also gave weight to the fact that the intended occupant of the new dwelling is a close family member of the occupant of the main farmhouse and this can be seen as enabling an extended and local family to stay together in the community to the benefit of local community life. They also took into consideration the support of the Parish Council. They noted the previous recent refusal and the difficulty which the applicant had apparently experienced when trying to raise a mortgage to replace the caravan with a log cabin or similar (which would still need to meet the legal definition of a "Caravan" in order to benefit from the Lawful Development Certificate. It was, however, noted that the normal requirements of the functional and financial tests for a new farmworker's dwelling had not been established in this case.

In the light of the above arguments it was resolved to grant planning permission.

The application raises the following issues:

1. The site is outside an identified rural settlement and, therefore, needs to be judged against policy H.7. It does not meet any of the exceptions in that policy.
2. The implied agricultural need has not been argued in any formal sense by the agent or the applicant. There is no evidence to support the functional or financial test necessary to justify an agricultural worker's dwelling.
3. The applicant's case is based principally on the fact that there is a potentially permanent residential presence on the site through the existence of the lawful development certificate for one caravan. That, however, is for a use of land and is quite different from development in the form of a permanent new dwelling on the site (in addition to the existing farmhouse), and different planning policy considerations apply.
4. The proposed new bungalow is specified in the design and access statement as a structure which would be significantly larger than the caravan and more conspicuous on the site. In the absence of any justification for a dwelling of the size proposed that would not be acceptable in this rural location.
5. In these circumstances an approval would be contrary to the Council's policies to exercise strict control over proposals for new development in the open countryside.

Since the meeting on 5th March no new information about the suggested agricultural need has come forward. In the light of the above, it can be seen that the proposal conflicts with the development plan policies which seek to restrict development in the open countryside without special justification. Consequently, the application is referred to this meeting for further consideration.

The original report to the Southern Area Planning Sub-Committee follows.

## **1. Site Description and Proposal**

- 1.1 Trewaugh Farm is on the north-east side of the narrow unclassified 71215 that leads from the B4251 to Llangarron. The site is located in open countryside. Treegwynt, a bungalow, is on the opposite side of the road.
- 1.2 This is an outline application to replace an existing residential caravan which, is positioned in a garden on the south-east side of the farmhouse and to the rear of a range of traditional and modern farm buildings, with a bungalow. Within this garden area are 2 polytunnels and 2 greenhouses. The application reserves all matters for future consideration.

## **2. Policies**

### **2.1 Planning Policy Statements**

- PPS1 - Delivering Sustainable Development
- PPS7 - Sustainable Development in Rural Areas

### **2.2 Herefordshire Unitary Development Plan 2007**

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy DR1 - Design

- Policy H7 - Housing in the Countryside Outside Settlements  
Policy H8 - Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses

### 3. Planning History

- 3.1 DCSE2006/1405/U Use of land for the siting of a residential caravan and use of land as its residential curtilage. - Granted 20.06.06
- DCSE2006/3871/O Siting of single storey dwelling in replacement of existing residential structure. - Refused 30.01.07

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

#### Internal Council Advice

- 4.2 Traffic Manager recommends conditions.

### 5. Representations

- 5.1 A Design and Access Statement has been submitted

#### Application Site and Locality:

- The level application site comprises a parcel of land used as a vegetable garden by the applicant, which incorporates a collection of glasshouses and polytunnels.
- The site abuts a farmstead and is well bounded to the north and east by mature hedgerows, to the south by a large barn and to the west by a sizeable residential property.
- There are severely restricted public views of the application site from the public highway.

#### Proposed Development:

- The planning application seeks to replace a lawful caravan with a small bungalow;
- Although all matters are reserved for subsequent approval, it is envisaged that the eaves and ridge heights of the structure would measure 2.5 metres and 4.8 metres respectively.
- Its floor area would be approximately 100 square metres.

#### Area Analysis:

- The application site adjoins the applicant's farmyard and a very large residential property occupied by the applicant's son and family.
- By virtue of the mature site boundaries and the proximity of large structures, the present residential caravan and accompanying polytunnels have very little visual impact upon the locality.

Design Response to the Built Environment:

- The application proposes the erection of a modest sized structure to minimise its visual impact over and beyond that of the existing, the mobile home or log cabin that could be erected in its place without the approval of the Council and the collection of glasshouses and polytunnels on the site would be removed.
- There is no reason to suppose that this bungalow would be any more noticeable within the landscape than the existing caravan and structures it is proposed to replace.
- The creation of a bungalow would be preferable in visual terms to the permanent presence of mobile units the appearance of which are utilitarian and bright in colour.

Access to the Development:

- The application site lies in open countryside in planning policy terms. It lies some distance from a settlement with a range of community facilities and amenities.
- Given that a residential caravan pre-exists and could be replaced by a larger caravan without the need for planning permission, the proposed development would be "sustainable neutral".
- There would be no greater reliance upon the use of the private motorcar than would arise from the continued lawful occupation of the existing residential caravan.

## 5.2. In a covering letter submitted with the application, the applicant's agent has said:

- The Council's only reason for refusal of the previous application did not entail the replacement of a "building" with residential use rights and that the dwelling would be substantially larger than the present caravan.
- It is important to note that in all other respects, the Council raised no objection to this proposal.
- The Council did not consider that the proposal would have been unsustainable, harmful to the landscape, visual or residential amenity or highway safety terms.
- Since the decision it has been agreed the caravan can be replaced by a larger caravan/mobile home or log cabin.
- My client's daughter who will occupy this site with her young family has tried unsuccessfully to obtain a mortgage for a log cabin.
- Therefore if she is to occupy this site she has no other option than to resubmit an application to erect a small bungalow as a replacement of the caravan.
- The Certificate of Lawful Existing Use or Development for the caravan does not restrict the identity of the occupier.
- The applicant seeks merely to replace the lawful use of his land with a permission to erect a bungalow that will be occupied only by his daughter her husband and their 2 young children.
- This permission will enable her to live closer to her father and to her extended family in a location where she was born and bred.
- The applicant's daughter assists on a part time basis with all aspects of the family farm and is "on call" for 24 hours a day to attend to any urgent matters.
- Policy H7 permits the erection of a new dwelling in the open countryside where it is "a replacement for, and comparable in size and scale with and on the same site as an existing building with established residential use rights".
- There exists a contradiction in the treatment of residential caravans in the Unitary Development Plan. Whereas policy H7 refers to a building being replaced, policy H11 draws no distinction between caravans and residential buildings. It states

"Proposals for the use of caravans or mobile homes for permanent residential use will be subject to the same locational requirements as permanent residential development".

- It is illogical to argue that in planning terms a permanent residential caravan equates with a dwelling - as in policy H11 - but at the same time resist the replacement of the same caravan with a dwelling.
  - Given this application replaces a caravan that possess established residential use rights, I can see nothing in the UDP that prevents its replacement with a dwelling.
  - The site is well screened and there will be no material difference between the retention of the caravan, the installation of a log cabin or the erection of a bungalow.
  - Indeed the life span of a dwelling would be considerably longer than a caravan/mobile home.
  - In support of my client's application I would draw your attention to a very similar scenario to an allowed appeal decision in Cornwall where the Inspector said the impact of a dwelling would be "slight".
  - My client would have no objection to a condition restricting occupation of the dwelling to his daughter and her dependents.
- 5.3 Llangarron Parish Council support this application, but request that a Section 106 Agreement be imposed upon the application.

The full text of these letters can be inspected at Southern Planning Services, Garrick House, Widemarsh Street, Hereford, and prior to the Sub-Committee meeting.

## **6. Officer's Appraisal**

- 6.1 This application is to replace a caravan that has established residential use; DCSE2006/1405/U refers, with a bungalow.
- 6.2 The site is located in open countryside where policy H7 applies. The policy states that housing development outside Hereford, and the market towns, the main villages and smaller settlements will be limited to that which meets an essential agricultural, forestry or other economic or farm diversification requirements; or it results from the conversion of an existing rural building, or the replacement of a building with established residential use rights provided it is comparable in size and on the same site. There is no exception in the policy for the replacement of what is a non-permanent structure with a permanent dwelling.
- 6.3 The bungalow could be occupied by persons(s) who would assist on a part time with all aspects of the family farm and would be available on call to attend urgent matters. However, no agricultural appraisal has been submitted with the application to establish a functional need for the bungalow. In the absence of any agricultural need for this bungalow the proposal is contrary to policies H7 and H8 of the Herefordshire Unitary Development Plan 2007.
- 6.4 Whilst the site is well screened from public view this in itself is not a good enough reason to permit housing development in this location contrary to policy and damaging to the protection of the countryside as a whole.

**RECOMMENDATION**

**That planning permission be refused for the following reason:**

- 1 Having regard to policy H7 of the Herefordshire Unitary Development Plan 2007 the local planning authority considers the proposal is unacceptable in that it is not for the replacement of a building with established residential use rights. Furthermore, the proposed replacement of the caravan for a dwelling would lead to a substantial increase in its size and scale and as such the resultant scheme could not be considered comparable.**

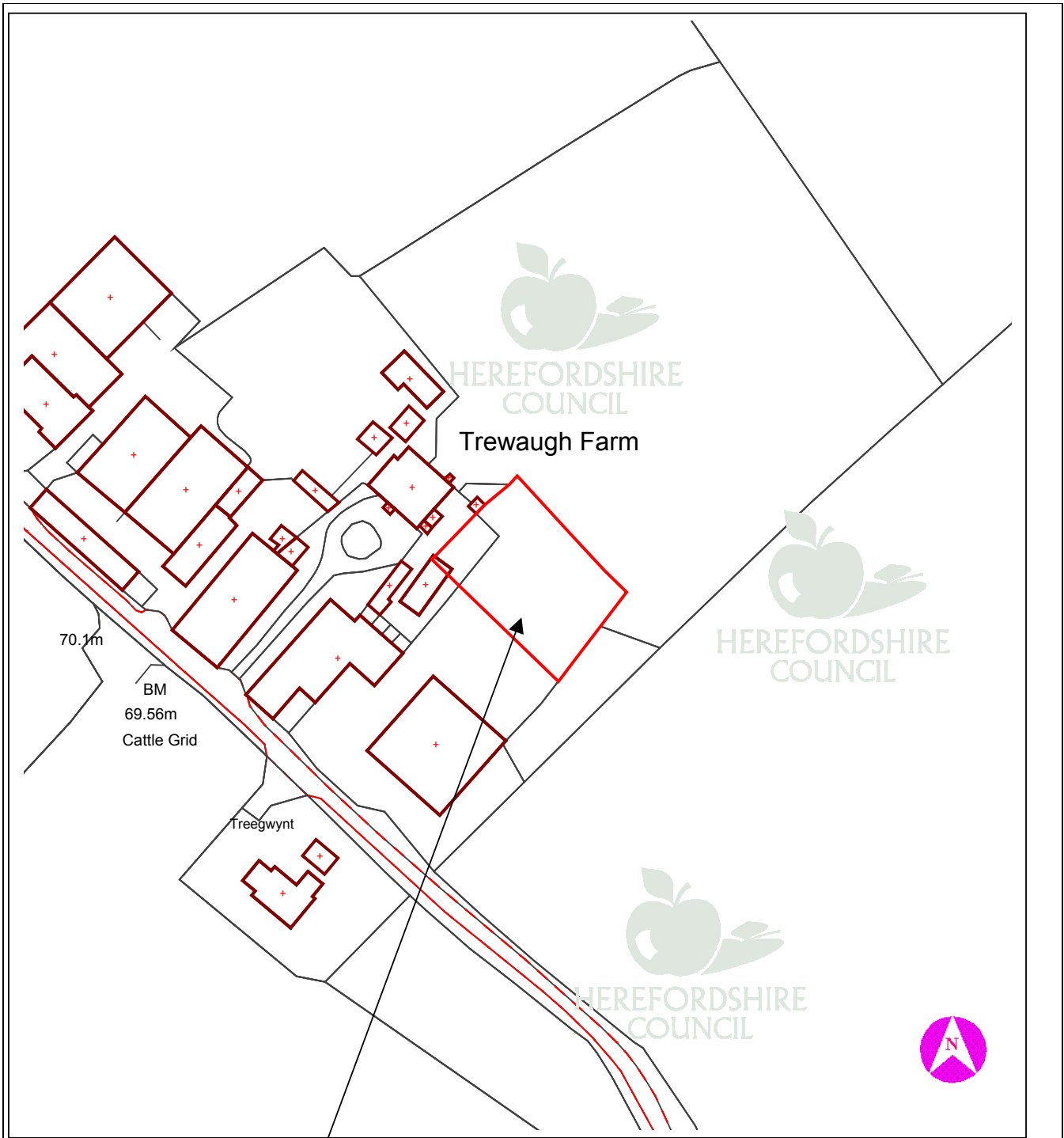
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCSE2008/0119/O

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land at Trevaugh Farm, Three Ashes, Hereford, Herefordshire, HR2 8LY

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