

**6 DCSE0009/1260/F DCDSE/091292/F - RETENTION OF RESIDENTIAL CARAVAN AT CUCKOO PATCH, HOPE MANSELL, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5TN.**

**For: Mr A Haile per Paul Smith Associates, 12 Castle Street, Hereford, HR1 2NL.**

**Date Received: 12 June 2009    Ward: Penyard    Grid Ref: 363247, 218569**

**Expiry Date: 7 August 2009**

Local Member: Councillor H Bramer

**1. Site Description and Proposal**

- 1.1 The application seeks planning permission for the retention of the existing residential caravan situated at Cuckoo's Patch, Hope Mansell near Ross-on-Wye. Cuckoo's Patch is a triangular parcel of land found adjacent the U70200 to the south of Hope Mansell. It lies within open countryside. The site currently comprises a residential caravan with a curtilage and paddock beyond. There are parking and lawned areas with the typical domestic paraphernalia such as garden sheds, garden furniture and children's play equipment.
- 1.2 The current application is made in the context that the use of land for the stationing of a residential caravan is unlawful, the last of the temporary planning permissions having expired on 30 April 2008. As such, full planning permission is now sought to continue the siting of a residential caravan upon the land.

**2. Policies**

- 2.1
- S1 - Sustainable Development
  - S2 - Development Requirements
  - DR2 - Land Use and Activity
  - DR3 - Movement
  - H7 - Housing in the Countryside Outside Settlements
  - H8 - Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses
  - H11 - Residential Caravans
  - LA2 - Landscape Character and Areas Least Resilient to Change
- 2.2 Planning Policy Statement 7: Sustainable Development in Rural Areas
- 2.3 Circular 11/95 – The Use of Conditions in Planning Permissions

**3. Planning History**

- 3.1 SH34676 Use of land as a site for a residential caravan at Cuckoo's Patch, Hope Mansell: Approved with conditions 30.6.1976.

The first planning permission that sanctioned the siting of a residential caravan upon the site was SH34676. Prior to that, and since 1967, it would appear that a touring caravan had been continuously occupied by Mr L Puddles.

It is the interpretation of this planning permission that is central to subsequent applications that have sought to establish that the siting of a residential caravan on the land has become lawful. Counsel's opinion confirms that the permission allowed Mr Puddles to reside upon the site indefinitely i.e. a personal permission, which expired upon his passing in 1990.

- 3.2 SH951158PO Proposed low profile three bedroom bungalow at The Purlieu Patch, Hope Mansell, Ross-on-Wye: Refused 10.1.1996.
- 3.3 SH960451PF Retention of caravans for farm workers at The Purlieu Patch, Hope Mansell, Ross-on-Wye: Approved 23.12.1996.

This application expired on 29 May 1998 and was subject to conditions restricting the number of residential caravans on site to one and occupation to a person or persons working for the applicant upon his farm i.e. it would appear that an agricultural justification for continued occupation was accepted.

- 3.4 SE2001/1558/U Continuing use of land for siting of residential caravan on land at Cuckoo Patch, Hope Mansell, Ross-on-Wye: Refused 4 October 2002.

The application was refused as a breach of planning control had not subsisted for the requisite 10 year period. Continued siting of the caravan only became unlawful at the expiration of the earlier temporary permission some 3 years earlier.

- 3.5 SE2002/3418/F Continuation of use of land for siting of caravan at Cuckoo's Patch, Hope Mansell, Ross-on-Wye: Approved 23 April 2003.

This was a temporary planning permission made personal to the current applicants, which expired on 30 April 2008.

- 3.6 SE2006/1362/U Continuation of use of land for siting of caravan at Cuckoo's Patch, Hope Mansell, Ross-on-Wye: Refused 6.9.2006.

Again, the grant of an earlier temporary planning permission meant that the continued siting of a residential caravan had not been in breach of planning control for the requisite 10 years. At the time of the application the earlier temporary permission still had 2 years to run.

- 3.7 SE2008/1574/U Lawful use of land for the stationing of a residential caravan in excess of 10 years in breach of condition 3 of planning permission SH760346/PF: Refused 17.3.2009

Once more a Certificate of Lawfulness application was refused on the basis that the temporary permission granted in April 2003 was valid until 2008 and as such, no breach of planning control had occurred.

#### **4. Consultation Summary**

- 4.1 None required.

##### Internal Council Advice

- 4.2 Traffic Manager: No objection.
- 4.3 Public Rights of Way Manager: No objection.

## 5. Representations

5.1 Hope Mansell Parish Council: The Parish Council defers from making a comment as “it has mixed feelings on this application.”

5.2 Sixty seven letters of support have been received. The content is summarised as follows:

- A caravan has been situated upon the land since the late 1960s;
- The site is well maintained and does not cause visual harm to the landscape;
- The applicants have lived upon the site for 8 years and are an integral part of the local community. The children have attended local schools and Mrs Haile was born and has lived her entire life in the village;
- Affordable housing is in short supply and this is the most affordable type of housing that the family will have access to;
- To refuse the application would create great distress and result in the loss of a family that make a great contribution to village life;
- Comparisons are made to the recent decision to grant planning permission for a seasonal workers’ caravan site at Coleraine Farm, Coughton.

Some of the letters refer to plans to replace the caravan with a bungalow and voice the opinion that this would be preferable by comparison.

5.3 Four letters have objection have been received from Mr R E Duberley, Twizling Farm, Hope Mansell, Mr & Mrs McAninly, Perlieu Barn, Hope Mansell and Mr & Mrs Mummery, Hom Rough Cottage, Hope Mansell. Their content is summarised as follows:

- The site is highly visible from across the valley and locally, particularly from the bridleway;
- There is no evidence to substantiate the claims that Mr Haile is engaged in agriculture upon his father-in-law’s farm. The application is not accompanied by an independent agricultural appraisal to demonstrate the justification for an agricultural workers dwelling;
- Even if the case were made, surely it would make more sense for the accommodation to be located adjacent the existing farm buildings;
- Mrs Haile’s father-in-law has obtained planning permission for dwellings within the village that could have met his daughter’s family need;
- The Hailes chose to move onto the site without the benefit of planning permission, leaving more suitable family accommodation in the process;
- The eventual aim appears to be to secure planning permission for a permanent dwelling – an idea to which many of the letters of support refer;
- The site is unsustainable and has been significantly enlarged since Mr Puddles’ time on site.

5.4 In response to an explanation of Mr Haile’s involvement upon his father-in-law’s farm, the agent has referred to the personal circumstances advanced in support of the 2002 application (SE2002/3418/F). It is stated that both Mr & Mrs Haile work upon the farm and the involvement will increase as Mr Jones’ input decreases. Two of the three children continue to attend local schools and it is the Haile’s belief that their personal circumstances have not changed significantly since the grant of temporary approval in 2003.

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

## 6. Officer’s Appraisal

- 6.1 The site has a somewhat complicated history but in essence, the residential use of the caravan has not become lawful by reason of the specific terms and construction of the original permission (SH34676) and the subsequent granting of two temporary permissions (SH960451PF and SE2002/3418/F). More specifically, it is the granting of the two temporary planning permissions together with the fact that the first permission was personal to Mr Puddles that explains why there has never been the requisite 10 year breach of planning control which would bring about immunity from enforcement action under S171B of the Town and Country Planning Act 1990. Consequently full planning permission must now be sought for the continued residential use of the land by Mr & Mrs Haile and their children. The Hailes have lived on the site since 2001.
- 6.2 The site is in the open countryside, and is not therefore a location where Council policy would support residential development. Policy H11 of the Unitary Development Plan states that 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. Temporary planning permissions may, however, be permitted to meet special identified short-term needs under policy H8. The caravan at Cuckoo's Patch is isolated from any other dwelling, with the exception of a bungalow to the immediate north, and in this prominent location is harmful to the character of this attractive rural area contrary to Policy LA2.
- 6.3 Policy H8 refers to dwellings (or caravans) that may be needed for agricultural purposes. Limited details have been submitted of the applicants' involvement in an agricultural enterprise at Upper End Farm. These circumstances do not, however, amount to a genuine agricultural need and even so, there is no cogent reason given as to why such a caravan needs to be sited at Cuckoo's Patch rather than in closer proximity to the holding which is 1km away by road.
- 6.4 The case for continuing the use therefore depends upon whether there are material considerations which indicate that an exception to policies should be made. If permission is refused it would be necessary to consider the expediency of taking enforcement action to remove the caravan, although it is now clear that the ability to take enforcement action remains intact.
- 6.5 The decision to grant the applicants temporary planning permission in April 2003 was based upon their special circumstances and it is the applicants' perspective that these circumstances continue to exist. It is clear that officers did not accept that agricultural need was justification for the retention of the caravan at that time and reference was made in the committee report to the earlier temporary planning permission and the continued and lengthy residential occupation of a caravan on site since the late 1960s. In this context, the reasonableness of taking enforcement action to secure the removal of the caravan was questioned.
- 6.6 Notwithstanding this, officers have revisited the guidance contained within Circular 11/95 – The Use of Conditions in Planning Permissions which cautions against the granting of second temporary permissions and have assessed this proposal in relation to whether it would be acceptable on a permanent basis.
- 6.7 In this case the retention of the caravan was last justified on the basis of the personal circumstances of the Hailes family and whilst their circumstances have not changed since the granting of the 2002 application, it is not considered that there is sufficient justification to permit their permanent occupation of the site.
- 6.8 Accordingly whilst the overwhelming support for the Haile family is appreciated, the recommendation is one of refusal. There are clearly likely to be enforcement implications relating to this recommendation and it would through this process be important for the local planning authority to act reasonably in relation to the family. If it were deemed to be expedient

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Further information on the subject of this report is available from Edward Thomas on 01432 260479

to take enforcement action to secure the cessation of the residential use and the removal of the caravan as originally intended, it would be envisaged that a reasonable timescale would need to be provided.

**RECOMMENDATION**

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

- 1 The application site is within the open countryside in a location where residential development is not normally permitted. The continued use of the land for the siting of a residential caravan does not, in this specific case, meet any of the defined exceptions criteria. The caravan and associated domestic paraphernalia are considered to harm the character and appearance of the rural landscape and the development is thus contrary to Policies H7, H8, H11 and LA2 of the Herefordshire Unitary Development Plan 2007.**

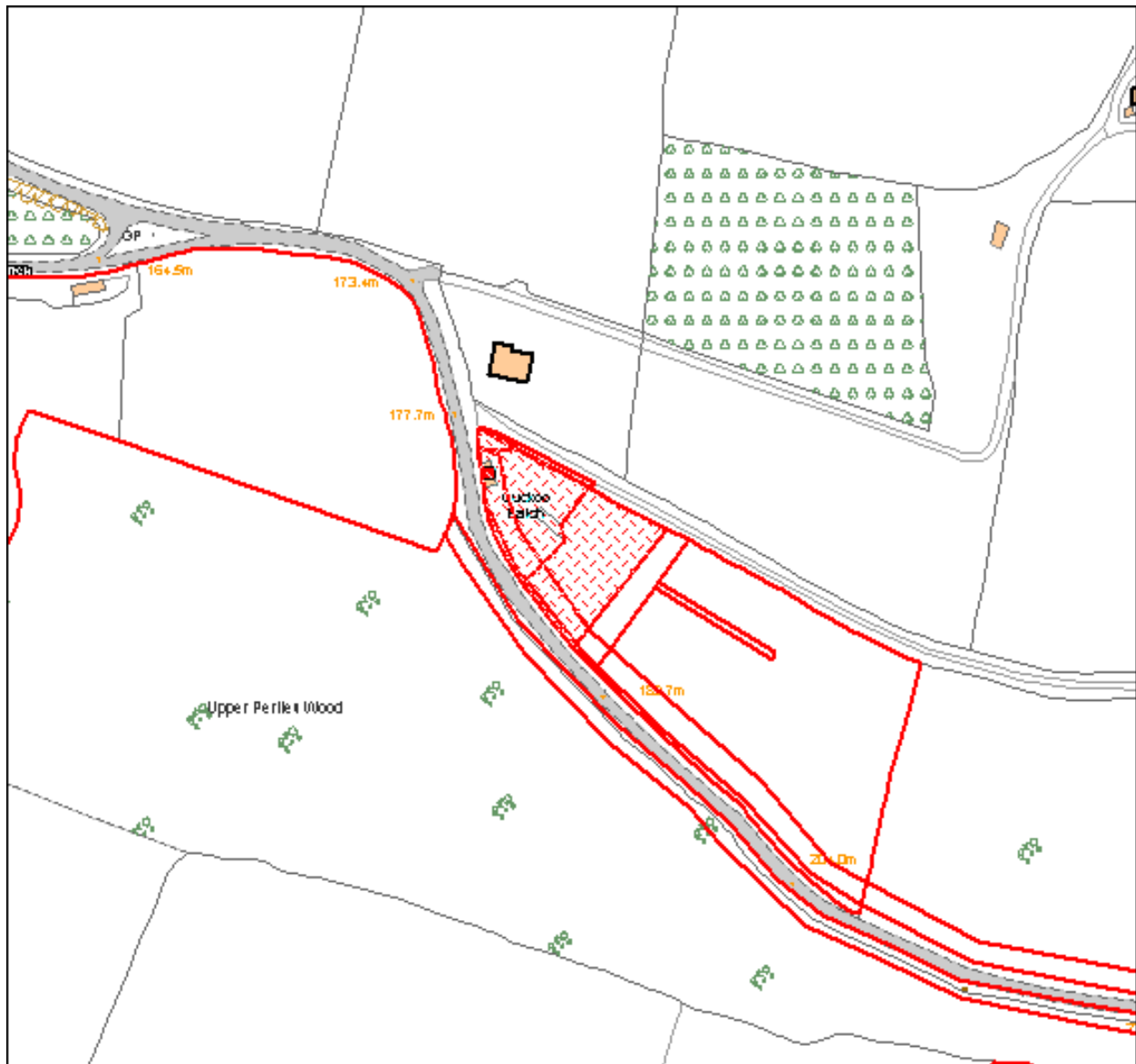
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**SITE ADDRESS :** CUCKOO PATCH, HOPE MANSELL, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5TN

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