

**The Stables Caravan Part 1 Of OS Parcel 3873  
North East Of Hillside House Street From Cropredy  
To Great Bourton Cropredy**

**20/03140/CLUE**

**Case Officer:** Wayne Campbell

**Recommendation:**

**Applicant:** Mr James Doran

**Proposal:** Certificate of Lawfulness Existing for mixed use of land for agricultural and as a caravan site for residential purposes

**Expiry Date:** 1 July 2021

**Extension of Time:**

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The Site is a parcel of land lying in open countryside between the villages of Great Bourton (~0.5km to the west) and Cropredy (~0.24km to the east). The Site contains a stable building and agricultural storage building, with hardstanding toward the front of the Site with the rear of the Site as paddock land. The front (northern) boundary of the Site is a mature hedgerow with existing gated access onto the road running between Great Bourton and Cropredy. Along the eastern boundary of the Site is a mature hedgerow / trees with a post and rail fencing to the western boundary. There is currently no delineating feature to the southern boundary of the Site, with the Site boundary dissecting an existing area of paddock. There is further post and rail fencing within the paddock area (outside of the Site) with a field boundary hedgerow to its southern boundary.
- 1.2. The Site sits adjacent to and east of an area of land containing stabling and which benefits from planning permission for a mixed use of equestrian and agriculture. The surrounding land is in agricultural use.
- 1.3. The Site consists of agricultural land classed by Natural England as being Category 3 (good-moderate) land. Whilst the Site is identified by the Environment Agency as being in Flood Zone 1 their records show the Site to be in an area with a high chance of flooding from surface water.
- 1.4. The London to Birmingham railway line runs across land some 80m east of the Site. There are records of protected and notable species (Swifts and Pipistrelle Bats) as being present within the vicinity of the site. The Site is in an area known to be affected by Radon Gas. The Site is also within an area of archaeological interest (undated enclosures, field system and ridge and furrow)

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application seeks confirmation that the caravan located on the site has been on the site and used for a period of not less than 10 years on a continuous basis. As such the applicant seeks confirmation that the caravan has an established use and is immune from enforcement action.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is considered relevant to the current proposal:
  - 05/00198/F - Erection of stables. Application Permitted

- 06/00593/F - Erection of 1 multi-use livestock and hay store building. Application Permitted • 06/01284/F - Resubmission of withdrawn application 06/00599/F - Retrospective: Temporary caravan on site for a period of 3 months for use by builders. Application Permitted.
- 13/00431/CLUE - Certificate of Lawful Use Existing - An area of rolled gravel hardstanding, a lean-to pig pen and a small soakaway/duck pond. Application Permitted.
- 20/02060/F - Change of use of land to a mixed use for the keeping of horses (existing) and as a residential caravan site for 4no gypsy families. Each with two caravans (including no more than 4no static caravans / mobile homes) together with the laying of hardcore. Application Refused
- Enforcement Notice for further / separate caravan on the site – pending an appeal.

#### **4. PRE-APPLICATION DISCUSSIONS**

4.1. No pre-application discussions have taken place with regard to this proposal

#### **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a site notice displayed near the site, letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records and statutory consultees. The final date for comments was **18 June 2021**, although comments received after this date and before finalising this report have also been taken into account.

5.2. A total of 44 letters were received from local residents of which 43 raised objections and 1 raised comment on the application.

5.3. The comments raised by third parties are summarised as follows:

- Concern over additional traffic as a result of the development,
- Concern over flooding which is a known problem in the area particularly around the primary school,
- Adverse impact on and out of character with the rural nature of the village,
- Creeping development in the countryside,
- Would remove the green belt between the 2 villages of Cropredy & Great Bourton,
- Already several caravan sites nearby,
- Site / use has already been subject of an appeal which was dismissed,
- Unreliable "proof" that the land has been lived on for a period of 10 years with no objections with mixed information about how long he has lived on this site,
- Long history of enforcement notices on this site,

- Most likely residents would be of an itinerant nature and the village already has a number of people living on the canal and using the ever-growing canal marina that wasn't supposed to be residential,
- Village infrastructure is at maximum capacity so further development will impede on all residents,
- The Public Right of Way has been illegally diverted around this parcel of land and illegal Right of Way signs have been posted on the new fencing and hedging.
- No local plan designating this area as suitable for residential development and an approval would set an unfortunate precedent,
- No justifiable reason to use Mixed Agricultural Land for residential purposes,
- Many from the traveller community will use said space to graze livestock, and clog up and already busy road with horse boxes,
- Noise would be a huge concern,
- Applicant has previously stated, in reply to a planning enforcement letter from Cherwell District council Planning and Development of 17 January 2020, that the mobile home in question was solely used for "toilet facilities, tea making, dog kennel" and had no door and was "basically uninhabitable",

5.4. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH COUNCIL

6.2. CROPREDY PARISH COUNCIL: **OBJECTION**. Proposal would harm the open countryside and rural character and appearance of landscape (including the historic ridge and furrow) between Cropredy and Great Bourton, contrary the policies ESD 13 (Local Landscape Protection and Enforcement) and ESD 15 (The Character of the Built and Historic Environment) as in The Cherwell Local Plan Part 1 The proposal is adjacent to an existing Public right of way and would potentially restrict access and be detrimental to the amenity value of the path.

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. The current application seeks confirmation that the caravan on the site has been in situ for a period of not less than 10 years and as such is immune from planning enforcement. In addition to this the application also seeks confirmation that the caravan has been used as a form of residential accommodation for this period. In support of this claim the applicant has provided a signed declaration from the former owners of the site / caravan.

## 8. APPRAISAL

- 8.1. A Certificate of Lawfulness of Existing Use can only be granted under section 191 of the Town and Country Planning Act 1990 (as amended), if the applicant can demonstrate, on the balance of probability, that the use, operation or other matter is lawful because no enforcement action can be taken against it (either because it does not involve development or require planning permission or because the time for the enforcement action has expired or for any other reason), and because it does not constitute a contravention of any of the requirements of any enforcement notice currently in force.
- 8.2. In this application the applicant has provided a signed declaration by the former owners of the site, Michael Bolton. In this declaration it is stated that the owner purchased the site on 5 Dec 2008 and that they were registered as the proprietor on 19 Feb 2009. The statement confirms that the site included a large barn and a touring caravan which the owners state they acquired as part of the purchase.
- 8.3. The statement continues that in March 2020 the former owner acquired 2 more touring caravans one of which was stored in the barn while the other was located outside within the curtilage of the site and identified in the statement as the 'residential caravan'. The residential caravan was used by the owner from March 2010 to June 2020 which is when the site was sold to the new owner and applicant for this certificate, James Doran. It is stated that during this period the owner occupied the site without seeking consent and no complaint or enforcement notice from any 3<sup>rd</sup> party or agency regarding the use and occupation of the land.
- 8.4. In considering the application there are two significant issues with the evidence submitted. The first is that in 2013 an enforcement notice was served on the owners of the site. The notice required the following:
- 1) cease using the land for domestic garden purposes; 2) cease using the land for the storage of vehicles; 3) remove from the land the hardstanding; 4) remove from the land all timber and chicken wire enclosures and timber shelters; 5) remove from the land all domestic paraphernalia and items of a domestic garden nature including, but not limited to all greenhouses, the plastic playhouse; the metal garden trellis; all ornamental trees and all seating and benches; 6) reinstate to grass any bare land exposed by the removal of the above items.*
- 8.5. The owner of the site at the time, appealed this notice, but the appeal was dismissed, and the notice upheld, with corrections. The Inspector's decision reveals further information in terms of what was on the site and what the Council considered to be authorised. The appeal decision confirms that an issued Certificate of Lawful Development certified that on the 27 March 2013 the area of rolled gravel hard standing and a lean-to pig pen were lawful. This provided protection for these aspects from the requirements of the enforcement notice unless there is some other material change in circumstances.
- 8.6. The Inspector noted the presence on the site of the touring caravan and also highlighted that the Council confirmed there to be no lawful residential use at the site. Furthermore, it is clear in the information sought from the owners as part of the enforcement process that the owner at the time admitted that the caravan was not used for residential purposes, and that they had a permanent address elsewhere. It was stated that the caravan was only used as a kitchen, toilet and as a dog kennel. The Inspector upheld the notice and dismissed the appeal. As such the owners were required to comply with the enforcement notice which required the owners to cease using the land for domestic garden purposes and the remove from the land all domestic paraphernalia and items of a domestic garden nature including, but not limited to all greenhouses, the plastic playhouse; the metal garden trellis; all

ornamental trees and all seating and benches. Therefore, the suggestion that the caravan and the domestic use of the site has not been questioned / subject to enforcement action is false.

- 8.7. Notwithstanding the point above, of further concern is the fact that the owner of the site changed hands in June 2020 and it is not clear if the caravan was then used as a form of residential accommodation as the former owner stated that they resided on the site until this date in June.
- 8.8. The new owner of the site is currently appealing against a further enforcement notice for the use of the site for a residential use with a further mobile home on the site, which is separate to the touring caravan the subject of this signed declaration.
- 8.9. Even if the previous owner had used the caravan for residential use during their ownership of the site, the change in owner results in a break in a continued use of the site / caravan for residential accommodation unless the new owner has confirmed that they used the touring caravan as a residential accommodation. No such information has been submitted with this application and as such the application fails to provide adequate evidence to support the use of the caravan a/ site for residential use.

## **9. CONCLUSION**

- 9.1. In this instance, on the balance of probability and given the evidence of the planning history of the site it is considered that an established use of the caravan and the site as a form of residential accommodation has not be proved. The residential use of the site has therefore not been established and that planning permission is required for the continued stationing and use of the caravan as residential, is required. The application of a certificate of lawfulness is therefore not agreed.

## **10. RECOMMENDATION**

### First Schedule

Certificate of Lawfulness Existing for mixed use of land for agricultural and as a caravan site for residential purposes

### Second Schedule

The Stables Caravan Part 1 Of OS Parcel 3873 North East Of Hillside House Street From Cropredy To Great Bourton Cropredy

### Third Schedule

On the balance of probabilities, the Local Planning Authority is not satisfied from the available evidence that the site as identified in the Second Schedule and edged red on the plan attached to this Certificate has been used for mixed use of land for agricultural and as a caravan site for residential purposes for a continuous period of ten years or more.

Case Officer: Wayne Campbell

DATE: 25/08/2021

Checked By: Nathanael Stock

DATE: 15.10.2021

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