

## Delegated Report

**Planning Ref: 23/00987/CLP**

**Applicant: Mr Adrian Smith**

**Ward: Twycross, Sheepy & Witherley**



Hinckley & Bosworth  
Borough Council

**Site: Land South of Sibson Road, Ratcliffe Culey**

**Proposal: Proposed lawful development certificate for the siting of a caravan for agricultural use**

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### **1. Recommendations**

#### **1.1. Grant Certificate of Lawful Proposed Development**

### **2. Planning application description**

2.1. This application seeks a Certificate of Lawful Proposed Development to confirm that the erection of a caravan within the countryside is lawful development, at land south of Sibson Road, Ratcliffe Culey. The proposed caravan is 5.6m in width x 18.7m in length, with an overall footprint of 103.5sqm. The scheme utilises a dual pitched roof that has a roof ridge height of 3.8m, and an eaves height of 2.5m.

2.2. The applicant has confirmed that the proposed use for the caravan is solely for the purpose of welfare and storage in connection with the agricultural use of the land

### **3. Description of the site and surrounding area**

3.1. The application site measures approximately 1.3 acres and is located in the countryside on agricultural pastureland, approximately 1 mile east of the settlement edge of Ratcliffe Culey and is located on the southern side of Sibson Road. The site is bound by dense hedgerow on all boundaries and would be accessed via an existing point on the northeastern corner of the site.

3.2. The site is currently used for agricultural purposes. Footpath T21 runs along the western boundary of the site and links Atherstone to Sibson. There is no built development on any of the surrounding boundaries to the site. The closest residential dwelling is Barn Farmhouse 150m to the west.

### **4. Relevant planning history**

No relevant history.

### **5. Publicity**

5.1. The application is for a Certificate of Proposed Lawful Use and no publicity is necessary.

### **6. Consultation**

6.1. The application is for a Certificate of Proposed Lawful Use and no consultation is necessary.

### **7. Policy**

7.1. Section 192 of the Town and Country Planning Act (1990).

7.2. Caravan Sites and Control of Development Act 1960 (as amended)

## **8. Appraisal**

- 8.1. Section 192 of the Town and Country Planning Act (1990) provides a person with the opportunity to apply to the Local Planning Authority (LPA) for a Certificate of Lawfulness to confirm that a proposed use or building operation is lawful. There is no provision under Section 192 for the planning merits of what has been applied for to be considered within the application. National or Local policies also have no bearing on whether a development is lawful. It is therefore an evidence-based application.
- 8.2. Section 192(2) of the Town and Country Planning Act (1990) provides that if the LPA is satisfied on the evidence provided with the application that the proposed use or operations are lawful, they shall issue a certificate; or in any other case they shall refuse the application.
- 8.3. Regarding the requirement for planning permission, it can only be required where development takes place, and development is defined in Section 55(1) of the Town and Country Planning Act 1990 as being: "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."
- 8.4. This definition has two criteria: one involving permanent physical alterations to land, and the other material changes of use of buildings or land. The structure to be sited on the land that is the subject of the application will comply with the statutory definition in every respect. No operational development as defined by Section 55(1) will need to take place.
- 8.5. In order for this proposal to be compliant with the relevant legislation, the caravan must be as defined in the Caravan Sites and Control of Development Act 1960 (as amended).
- 8.6. Section 29 (1) of the Caravan Sites and Control of Development Act 1960 defines a caravan as "... 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.
- 8.7. This definition was subsequently modified by Section 13(1) of the Caravan Sites Act 1968, stating that when assembled, said caravan must be 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).
- 8.8. The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 amended Section 13(2) of the 1968 Act to increase the maximum dimensions of a caravan to:
- length (exclusive of any drawbar): 65.616 feet (20 metres);
  - width: 22.309 feet (6.8 metres);
  - overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres)
- 8.9. The proposed structure will comply with the above dimensions given the proposed length is to be 18.7m with a width of 5.6m and an internal maximum height of 2.5m.

- 8.10. With respect to the 'mobility test' it is only necessary to be able to demonstrate that the caravan, when assembled, is 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". The applicant has confirmed that the caravan will be placed upon concrete blocks and could be moved in the same way in which it would be placed upon the site.
- 8.11. The applicant has confirmed that the proposed use for the caravan is solely for the purpose of welfare and storage in connection with the agricultural use of the land. With the information before officers, the LPA does not consider on the balance of probability that the proposal would result in permanent physical alterations to the land, nor would it result in any material change of use of the land.
- 8.12. Therefore, the application is considered lawful, and a certificate for the Proposed Lawful Development is granted.

## **9. Equality implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

- 10.1. The proposal is considered to be a lawful use. It is determined on the balance of probability that there would be no permanent physical alterations to the land, nor would there be any material change of use of the land. The proposed caravan and therefore does not constitute 'development' as such and therefore the circumstances of the case do not require submission of a planning application.
- 10.2. This conclusion is made on the basis of the details provided by the applicant, and as shown on the following documents received by the Local Planning Authority:
- Revised Application Form (submitted: 22.11.2023)
  - Email with additional information (sent 05.12.2023)

- Proposed Caravan Elevations and Floor Plans (submitted 29.11.2023)
- Site Location Plan (submitted 09.10.2023)

## **11. Recommendation**

### **11.1 Grant Certificate of Proposed Lawful Development**

- The proposal is considered to be a lawful use by virtue of the provisions of The Town and Country Planning Act 1990 - Section 55(1) and the Caravan Sites and Control of Development Act 1960 (as amended).