

**Planning Committee:** 01 November 2006

**Item Number:**

**Application No:** W 06 / 0963

**Registration Date:** 29/08/06

**Town/Parish Council:** Stoneleigh

**Expiry Date:** 24/10/06

**Case Officer:** John Edwards

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**Westwood Lodge Westwood Heath Road, Coventry, CV4 8AA**

Retrospective application for retention of a pre-fabricated bungalow, terrace and oil tank FOR Mr & Mrs G H Williams

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This item is reported to Committee as it relates to an enforcement case which is the subject of a Public Inquiry which has been held in abeyance to await the outcome of this application. The application is accompanied by a section 106 legal agreement .

**SUMMARY OF REPRESENTATIONS**

Parish Council; has no observations

Environment Agency: have not provided detailed comments on this application but point out that government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with the relevant standards and Building Regulations.

WCC Ecology - no objections but note existence of Ancient Woodland within 500 metres of site.

**RELEVANT POLICIES**

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
- (DW) C8 - Special Landscape Areas (Warwick District Local Plan 1995)
- (DW) ENV1 - Definition of the Green Belt (Warwick District Local Plan 1995)
- (DW) C1 - Conservation of the Landscape (Warwick District Local Plan 1995)
- GD.3 - Overall Development Strategy (Warwickshire Structure Plan 1996-2011).
- GD.5 - Development Location Priorities (Warwickshire Structure Plan 1996-2011).
- RA.1 - Development in Rural Areas (Warwickshire Structure Plan 1996-2011).

**PLANNING HISTORY**

This site has been the subject of a number of previous applications including two for the erection of a prefabricated dwelling, two for the erection of a dwelling and one for an Established Use Certificate for the stationing of a mobile home.

Both applications for a dwelling were refused (W901226 and W910288), the first being taken to appeal. This was after the established use certificate had been granted for the mobile home. The Inspector, in his decision letter of 14th June 1991, stated that the main issue was whether the proposal would accord with the

Green Belt policies, or whether there were any very special circumstances to justify an exception. He concluded that the proposal did not fall within one of the categories of appropriate development. He then looked at the special circumstances put forward by the appellant (the present applicant), namely the established use certificate for the mobile home, the planning permission for the conversion of adjoining farm buildings to 4 dwellings, and the substantial residential development and proposed extensions to the university science park to the north-east of Westwood Heath Road. He determined that the appeal site was substantially larger than the site of the Established Use Certificate, and that the mobile home was a temporary structure and was not a sound reason for allowing permanent development in the Green Belt. He also determined that the site and the mobile home were prominent when viewed from public vantage points. He then dismissed the appeal.

In January 2004 (Principal Items No. 5 on 6th January) an enforcement report was considered in relation to the erection of a timber building for residential purposes. This was deferred to obtain more information about the structure and the legal definition of a mobile home since it was claimed by the owner that the structure was actually a mobile home and, therefore, did not need consent since it was replacing the previous mobile home. The item was then referred back to Planning Committee on 4th January 2005 when permission was refused on grounds of conflict with green belt policy.

Following the refusal, in view of the continuing breach of planning control, an enforcement notice was issued on September 26th 2005. Subsequent to this, the applicant submitted a further application (W06/0016) accompanied by a detailed case of personal circumstances. This application was also refused on grounds of conflict with green belt policy. An appeal was then lodged and a public inquiry commenced on May 23rd 2006.

## **KEY ISSUES**

### **The Site and its Location**

The site lies behind an old farm buildings complex (now converted into two dwellings) and two other houses, one of which is the original farmhouse and the other was converted out of two farm cottages, at the end of a private drive to the south-west of Westwood Heath Road and lies in the Green Belt and the Arden Special Landscape Area.

### **Details of the Development**

The proposal is to retain the existing, prefabricated, dwelling and its associated land (including the use of the former farm shed, a domestic oil tank, and a slightly raised terrace at the back (south-east) of the structure) The dwelling is in the same location as the original mobile home on the site and complies with the size criteria for a mobile home as legally defined in the relevant legislation.

### **Assessment**

The whole area lies in the Green Belt and a special landscape area and, therefore, the main issues are whether it complies with the relevant policies and central government guidance or, if not, whether there is any very special

justification to override the normal presumption against inappropriate development.

The relevant guidance (PPG2: Green Belts and PPG7: Sustainable Development in Rural Areas) and the policies of the development plan, make it clear that the erection of a dwelling is not one of the specified categories of acceptable development. It is necessary, therefore, to look at any justification that has been submitted since, by definition, inappropriate development is harmful to the Green Belt.

The replacement of the former mobile home with the current prefabricated dwelling was undertaken by the applicant in the belief that consent was not required. The key reason for the applicant replacing the mobile home was stated as being to "to ensure the comfort and accessibility of a house for his wife who has been wheelchair bound and suffers from a broken vertebrae in the spine, chronic arthritis and bronchial asthma. She also has a knee replacement. She could no longer use the stairs of their previous home which adjoins this plot and this single storey home has been specifically designed for her use".

At the time of the previous refusal, it was concluded that the personal circumstances cited by the applicant, (principally due to their temporary nature) did not constitute sufficient reason to override the long term objectives of Green Belt policy and did not, therefore, justify a grant of permission for a permanent dwelling which would remain long after the personal circumstances of the applicant have ceased to exist.

Counsel was instructed for the public inquiry which commenced in May 2006 but immediately before the inquiry, the applicant, through his own Counsel, conceded that a personal permission would be acceptable to his clients such that the dwelling would be removed following the cessation of their occupation. Furthermore, the applicant also confirmed that he would be prepared to enter into a Section 106 Agreement to restrict the occupancy of the dwelling to the current owners only (i.e. Mr and Mrs Williams) and to extinguish the established use rights for a mobile home which would be the permitted "fall-back " position in the event of the removal of the current prefabricated dwelling. Given this significant change in the material planning circumstances of the case, the inspector concluded that the inquiry should be held in abeyance pending the submission and determination of a revised planning application.

The current application is accompanied by a draft Section 106 agreement along the lines set out above and the Head of Legal Services is satisfied that the agreement will secure the undertakings given by the applicant. In planning terms, it is considered that the personal permission and additional provisions of the legal agreement will ensure the long term protection of this green belt site and, indeed, will secure an enhancement to the openness of the green belt in the longer term through the extinguishment of the established use rights for a mobile home. In this context, I am satisfied that the removal of the longer term established use rights can be regarded as "very special circumstances" in favour of the current development.

My conclusion on the current application, therefore, is that a temporary personal permission can be supported, subject to the prior completion of the section 106 agreement relating to occupancy and extinguishment of established use rights.

## **RECOMMENDATION**

GRANT, subject to the completion of a Section 106 agreement in relation to occupancy and extinguishment of established use rights and to the conditions listed below.

## **CONDITIONS**

- 1 This permission shall enure only for the benefit of Mr. G. and Mrs. M. Williams. The dwelling and all domestic facilities, oil tank and terrace hereby permitted to be retained shall be removed in their entirety and the site restored to its original agricultural character at or before the cessation of their occupation of the dwelling. **REASON** Since the dwelling constitutes inappropriate development in the green belt and permission would not normally be granted other than to meet the personal circumstances of the applicants.

## **INFORMATIVES**

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development which is permitted to be retained for a time period only to coincide with the applicants occupation of the dwelling, coupled with the provisions of the Section 106 agreement which secures the long term restoration of the open character of the area, is considered not to materially prejudice the policies listed.

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