

**Planning Committee:** 21 February 2006

**Item Number:** 09

**Application No:** W 06 / 0016

**Registration Date:** 04/01/06

**Town/Parish Council:** Stoneleigh  
**Case Officer:** Steven Wallsgrove

**Expiry Date:** 01/03/06

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**Westwood Lodge, Westwood Heath Road, Coventry, CV4 8AA**  
Erection of a dwelling (retrospective application) FOR Mr G H Williams

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This application has been requested to be presented to Committee by Councillor Coker.

### **SUMMARY OF REPRESENTATIONS**

**Stoneleigh Parish Council** : "Has no observations. See also comments sent to you with your [sic] previous correspondence."

**Neighbours** : Letters of support have been received from 3 local residents and from another person. This one challenges the Council's reading of the definition of a 'caravan'. The other three refer to no loss of privacy, well off the road, and better than the previous structure.

### **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 four previous applications namely three for the erection of a dwelling and one for an Established Use Certificate for the stationing of a mobile home. The Enforcement Notice authorised on 4th January 2005 is now the subject of an appeal, with a Public Inquiry scheduled for 23rd May 2006.

The applications for a dwelling were refused (W901226, W910288 and W04/2039), 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.

A substantial amount of further investigation was then carried out, including obtaining letters from the contractors and the suppliers. This clearly establishes that the external walls came in 4 parts, and that the roof also came in a further 4 sections, but these then had to be dismantled and reconstructed on site. The structure then had dividing walls inserted, a heated concrete floor installed, insulation fitted into the wall framing, the internal walls plastered, the external walls rendered and all the electrics, plumbing, fittings and fixtures installed. The whole construction process took many weeks, the basic frame taking five days in itself.

The definition of a twin-unit caravan under the Caravan Sites Act 1968 is:-

1. *A structure designed or adapted for human habitation which*

- a) *is composed of not more than two sections separately constructed and*  
b) *is, when assembled, physically capable of being moved by road from one*

*designed to be*  
*place to another*

*shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.*

2. *For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely:-*

- a) *length (exclusive of any drawbar): 60 feet (18.288 metres);*  
b) *width: 20 feet (6.096);*  
c) *overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level); 10 feet (3.048 metres).*

It is clear, therefore, that the present structure is not a 'caravan'. The owner, however, referred to a case in The Times, in 1991, which was said to show that his unit did comply with the definition. This has been researched but cannot be found through the on-line archive search for either The Times or the Sunday Times. The details given, however, appear similar to another case in 1991 which ended up in the Court of Appeal in 1994 and is now the leading case for this type of case, and makes it clear that this type of construction is not a caravan.

## **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. It is larger than shown on the earlier planning applications and now includes a belt of mature trees on the south-west side of the site. The site visit also found that the red line boundaries were actually incorrect as the site was still larger, with the ownership including half of a former, relatively modern, farm shed now used for domestic storage and the strip including the access drive. These errors were drawn to the attention of the agent.

## **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).

## **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 statement of justification submitted by the applicants agent focuses on four main areas:-

- (i) Local Plan Policies  
In relation to conflict with policy, it is argued that there is no demonstrable harm as a result of the development since the visual impact of a replacement mobile home would be the same or worse than the current dwelling.
- (ii) Fall Back Position  
It is argued here that if the current dwelling were to be removed, it could immediately be replaced by a mobile home up to the maximum dimensions specified in the 1968 Act, and this could be occupied on a permanent residential basis.
- (iii) Personal Circumstances  
It is argued that the present dwelling has been specifically adapted for Mrs. Williams' disability, allowing wheelchair access and the cost of removing it and replacing it with a mobile home would be in excess of £200,000. The applicants case is that in the very specific and exceptional circumstances of the case, the personal and welfare needs of himself and his wife should be given significant weight in determining whether they should be allowed to retain their home.
- (iv) Human Rights

The applicant argues that given the lack of demonstrable harm being caused by the mobile home, there would be an interference with his human rights under Article 8 and Article 1 and Protocol 1 of the ECHR (European Court of Human Rights) and this interference would not be "proportionate" and therefore his rights would be contravened.

The covering letter with the previous application set out the applicants belief that consent was not required (as discussed above) and that he had notified the rating department. It went on to state that the reason for the applicant replacing the mobile home was "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". Similar justification is given under the heading of "personal circumstances" with the present application.

Personal circumstances, however, rarely constitute a valid reason to override the long term objectives of Green Belt policy and appeals have consistently dismissed these as a reason for allowing development which will remain long after the personal circumstances have ceased to exist.

Other possible justification was considered by the Inspector in the 1991 appeal in respect of a permanent dwelling to replace the mobile home on this site as set out above, but these were not considered sufficient.

It is considered, therefore, that there is no very special justification for this dwelling. In such an instance, the application of policy requires that planning permission should be refused.

The applicants, at the end of their statement of very special justification (which is identical to that submitted with the Enforcement Notice appeal), claim that their human rights have been affected.

It is accepted that the relevant legislation does include a right of respect for family/private life and a right of property. However, these are qualified by restrictions imposed in the public interest, such as Green Belt controls. It is accepted that the enforcement action already authorised, and the refusal of this application (which is identical with that refused under W04/2039), would affect their human rights, but those rights are not absolute and there have been a number of cases where it has been accepted that public interest policies, such as protecting the Green Belt, should over-ride such private interests.

## **RECOMMENDATION**

That planning permission be REFUSED for the following reasons:-

## **REASONS**

- 1 The site is situated within the Green Belt and the Warwickshire Structure Plan 1996-2011 together with the Warwick District Local Plan and Planning Policy Guidance Note 2 states that, within the Green Belt, the rural character of the area will be retained, protected and wherever possible enhanced. Local Plan policy (DW) ENV1 and emerging policy DAP1 of the first deposit version of the Local Plan (1996-2011) state that development will not normally be permitted, except in

very special circumstances, for the construction of new buildings, unless it fulfils specific criteria. The proposed development does not satisfy any of these criteria and, in the Planning Authority's view, very special circumstances sufficient to justify departing from the development plan have not been demonstrated.

- 2 Policy GD.3 of the Warwickshire Structure Plan 1996-2011 directs most new development towards urban locations, whilst in rural areas, policy RA.1 states that the development should be provided for in local plans specifically to meet the needs of the local population. The Warwick District Local Plan specifies in policy (DW) H8 a number of limited infill villages within the district where housing development may be permitted, within defined village policy boundary areas. The application site is not within a defined village policy boundary and is within an area where the Planning Authority would not normally permit residential development unless it were justified by agricultural or other special needs. There is no evidence that it is so justified and there are considered to be no other special circumstances sufficient to justify departing from the Plan in order to permit the development applied for.
  
- 3 The application site is within a Green Belt and Special Landscape Area, where both Structure Plan and Local Plan policy seek to conserve and protect the rural landscape. It is considered that the proposed development would have a detrimental impact on the rural landscape by reason of its prominence in the landscape and inappropriate design and materials, and would thereby be contrary to policies GD.6 and ER.4 of the Warwickshire Structure Plan and Policies (DW) ENV1 and (DW) C8 of the Warwick District Local Plan and emerging policy DAP1 and DAP3 of the first deposit version of the Local Plan (1996-2011).

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