

**2021/0953**

Ms Alison Molyneux

Lawful development certificate for existing use of siting of caravan for human habitation and associated garden

The Caravan, Molbee Farm, Pond Common Lane, Oxspring Sheffield, S36 8YR

### **Description**

The application site consists of a static caravan and small single storey additions to the rear and sides. The caravan has a small garden area in front of the caravan which contains a grassed area. At the time of the site visit (17<sup>th</sup> August 2021) a table and chair set was seen on this area of land to the front of the caravan, which can be seen on the photograph below. The surrounding land appears as agricultural pasture/grazing land.

The applicant states that a caravan has been sited on this area of land since 1983 and has been her main residence since 1998. The applicant states that in 2013 the caravan was replaced, like for like on the same day and there has been no break in the occupation of the caravan. The applicant has provided Council Tax bills and Water bills from as far back as 2003 to show that the caravan has been occupied for this length of time.



2021



2013



2009



2002



## Background

91/1019 – Erection of detached bungalow (outline) - Refused and dismissed at appeal

91/1020 – Siting of caravan – Refused and dismissed at appeal

88/1820 – Erection of agricultural workers dwelling and calf rearing units – Refused for the following reasons:-

1. The site of the proposed development lies within an area shown as Green Belt and an Area of County Landscape Value in the approved South Yorkshire Structure Plan within such areas it is the policy of the Local Planning Authority not to permit development except in exceptional circumstances for purposes other than agriculture, forestry, recreation, cemeteries, institutions standing in large grounds and other uses appropriate to a rural area. In the opinion of the Local Planning Authority no exceptional circumstances exist that would justify the granting of planning permission in this case
2. In the opinion of the Local Planning Authority the design of the dwelling proposed is inappropriate in this rural location, to the material detriment of the visual amenities of the area.

Enforcement Notice – 1981 requiring temporary caravan extension to be removed from land and the land to be left in a neat and tidy condition.

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80/1829 - Erection of temporary extension to residential caravan – Refused for the following reasons:-

The reasons for the Council's decision to refuse permission for the development are :—

1. The extension adjoins a caravan for which permission was granted in 1978 for which it is now considered there are no agricultural grounds to warrant a renewal of permission being granted.
2. The extension, together with the caravan, is visible over a wide area of elevated open countryside and detracts from the visual amenity of the locality which forms part of a green belt.

80/1828 - Renewal of permission for residential caravan used as agricultural dwelling – Refused for the following reasons:-

The reasons for the Council's decision to refuse permission for the development are :—

1. Permission was granted in 1978 for the stationing of the caravan for residential use in order that an assessment could be made of the viability of the intended agricultural use of the land and it is not considered that sufficient progress has been made in the development of a viable agricultural unit to justify a further renewal of permission being granted.
2. The caravan is visible over a wide area of elevated open countryside and detracts from the visual amenity of the locality which forms part of a green belt.

79/1590 – Renewal of temporary permission for stationing of residential caravan for use as an agricultural dwelling unit – permission expired 31<sup>st</sup> August 1980.

79/3337 – Erection of temporary extension to residential caravan – approved for a temporary period

77/2551 – Stationing of residential caravan for use on agricultural unit.

### **Proposed Development**

The applicant has applied for a Lawful Development Certificate for the existing use of siting of caravan for human habitation and associated garden for more than 10 years. The applicant has submitted a statutory declaration, site plan, photographs and Council Tax and Water Bills for the caravan which are dated from as early as 2003.

### **Consultations**

Legal – Grant subject to a reduced garden area

Hunshel Parish Council - The Parish Council has no objections to the above providing the container currently on the site where it is proposed to put the caravan is removed

### **Representations**

None

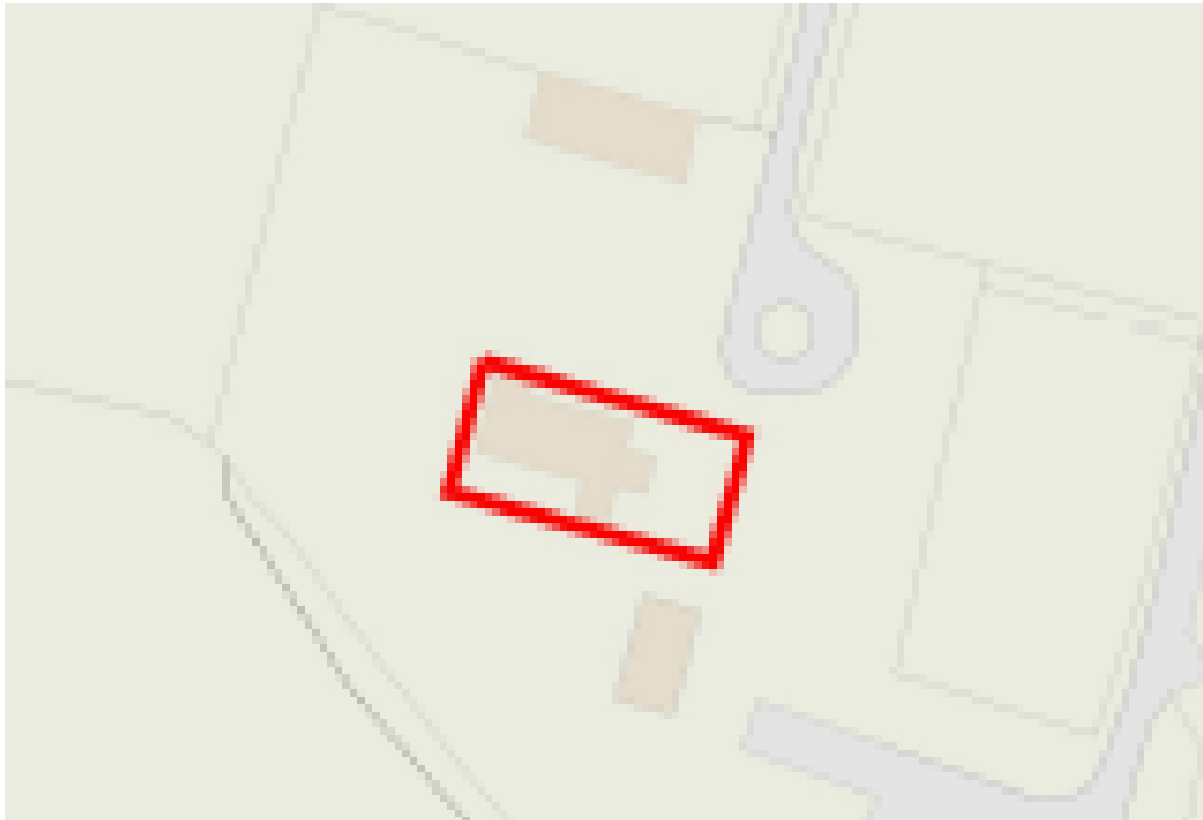
### **Assessment**

The LPA can grant a certificate confirming that an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990. The applicant has submitted this application for lawful use of the relevant area of land under Section 191 of the Town and Country Planning Act 1990. Section 191(1) provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful they may make an application for that purpose to the local planning authority specifying the land and describing the use, operations or other matter. Section 191(4) further provides that if, on the basis of the information provided in the application, the Council is satisfied at the time of the application of the use, and the Council is obliged to issue a certificate to the effect that the use is lawful. It should therefore be assessed whether the use of the land is lawful under the Town and Country Planning Act 1990 on the basis. If the 10 years is established for the use the Council would not be entitled to take enforcement action in respect of the breach and the present use would thus be lawful.

After liaising with the Legal Officer and after visiting the site, it is agreed that it's fairly clear that the caravan has been occupied for more than 10 years. The Legal Officer has assessed the previous enforcement notices and it is also clear that the 'original caravan' was removed from the site but the caravan to which this application relates is not the caravan to which the notices related. It is a different caravan stationed some 50 feet from the siting of the original caravan which had been removed in compliance with the enforcement notices. The notices also have a number of defects as they treat the caravan as operational development. With development which is a use of land it is vital that the notice requires the cessation of the use, which these notices do not do and a court would not construe these notices as referring to the cessation of a use in the Legal Officer's view. It is therefore felt that the application should be granted based on the lawful use of the caravan.

In terms of the large garden area claimed to be in residential use, it is felt to be significant, and the evidence is not clear and unambiguous that this has been in use as a garden area for 10 years or more. The applicant has submitted undated photographs from which it is not possible to discern the area in the photographs submitted. The agent has confirmed that the applicant

is unable to provide any further evidence to prove the use of the larger garden area. The Legal Officer states that caravans do not have curtilages (unlike dwellings) and no significant evidence has been submitted to show that this whole area claimed has been used essentially as a garden to the caravan use. It is apparent from aerial photographs that the red edged site is very large and the majority of it has the character of agricultural pasture. A small area in front of the caravan which previously included a rockery and grassed area (shown on the photographs with the statutory declaration) does appear to have an ancillary garden use which coincides with what was viewed on site at the time of the site visit. Therefore, it is recommended that the smaller area should be granted as part of the certificate. The approved garden area is shown on plan 2021/0953 Caravan Ancillary Garden Area below.



All in all, there is sufficient evidence to show that the caravan has been used for residential purposes and this smaller area land has been used domestically for more than 10 years and a LDC for its use can be granted.

**Recommendation: Grant**