HUNTINGDONSHIRE DISTRICT COUNCIL

24/02288/CLED

OFFICER REPORT

Case No: **24/02288/CLED** **Certificate of existing lawful use**

Proposal: **Lawful development certificate for existing mobile home.**

Location: **Majors Lodge Dawsons Farm Puddock Road**

Applicant: **Mr And Mrs Reuben Walker**

Grid Ref: **534011 287246**

DESCRIPTION OF SITE AND APPLICATION

This application is seeking a Lawful Development Certificate for Existing Use of a mobile home referred to as Majors Lodge situated at Dawsons Farm, Puddock Road, Warboys as a main dwelling for more than 10 years.

The applicants state that Majors Lodge and associated land outlined in Red on the accompanying plan to the application has been residentially occupied continuously in excess of 10 years independently to Dawsons Farm. Therefore, the applicant seeks a Certificate of lawful existing development to demonstrate that Majors Lodge should be classed as immune from formal planning enforcement action and considered lawful through the passage of time. The application was submitted on 5th December 2024 and therefore the relevant time period to be considered is from the 5th December 2014, of continuous occupation of Majors Lodge independently from Dawsons Farm.

Officer note previous applications under 24/00957/CLED and 23/00799/CLED for Lawful development certificate for mobile home (Majors Lodge) has been on site and occupied as a main dwelling for more than 10 years. Both applications were refused due to the applicant failing to provide sufficient information for officer to decide on the balance of probabilities that the mobile home has been occupied continuously for residential purposes in excess of 10 years.

RELEVANT PLANNING HISTORY

1201516CLED - Certificate of Lawful use for retention of residential caravan
Refused 05.03.2013
20/02460/FUL - Change of Use of agricultural building to single dwelling (Class C3)
Refused 28.05.2021
23/00799/CLED - Lawful development certificate for mobile home (Majors Lodge) has been on site and occupied as a main dwelling for more than 10 years.
Refused - 29.06.2023
24/00957/CLED - Lawful development certificate for existing mobile home - Refused - 04.09.2024

CONSULTATIONS

There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a LPA to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. In this case it was considered reasonable to consult the local Parish Council for evidential purposes.

Warboys Parish Council made comments neither objecting nor supporting the planning application.

REPRESENTATIONS

Representations have been received from the following address;
Dawsons Farm, Puddock Road, Warboys

A representation has been submitted by Dawsons Farm, Puddock Road in objection to the application for the following summarised reasons:
- No independent water supply
- All previous comment to earlier applications will be linked.

Earlier objections contain the following;

- Aerial photos and photos still do not demonstrate continuous residential occupation and not cross referenced within the statutory declaration.
- Council Tax does not demonstrate continuous residential occupation on its own.
- Electricity bills listed on the spreadsheet do not cover the relevant period.
- Landline and Mobile Phone Bills do not cover the relevant period.
- Broadband Bills do not cover the relevant period.
- School Transport email does not demonstrate continuous occupation.
- Full relevant period not covered by bills up to date of application submission.
- Evidence submitted is ambiguous.
- Not clear from the evidence provided what day to day facilities are available in the mobile home in terms of washing and cleaning facilities that would allow permanent residential occupation at the site.
- Following the refusal of 20/002460/FUL, it appeared there was no activity at the site, which further demonstrates no residential occupation at the site for that period.

ASSESSMENT

The planning merits are not for consideration in this case as this application is determined solely on the basis of whether the breach of planning control is now immune from enforcement action due to the passage of time. The applicant has to demonstrate, on the balance of probability that the claimed residential occupancy of Majors Lodge has occurred continuously for 10 years.

Current guidance on applications for Certificates of Lawfulness of Existing Use or Development is set out in the Governments Planning Practice Guidance.

A local planning authority 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.

If the local planning authority is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate. Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application.

Relevant parts of the Town and Country Planning Act 1990 are as follows:

The statutory framework covering "lawfulness" for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

Section 171B(2) imposes a 10 year time limit where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of— (a)in the case of a breach of planning control in England, ten years beginning with the date of the breach.

The test is the balance of probability. Regard cannot be given to any objections to this application on planning grounds or previous planning decisions. The determination of this application turns on the facts of the case and their interpretation in the light of relevant planning law and judicial authority.

The application is submitted with the following evidence;

1) Planning Statement

The planning statement details that "the mobile home, referred to as Majors Lodge, has been located on the site demarcated by the red line, and occupied as a main dwelling for more than 10 years". The planning statement goes onto detail how the applicants have met the balance of probability with the additional evidence submitted since the previous application of May 2024 reference 24/00957/CLED

In addition to the evidence below, the planning statement contains a number of screen shots of photos that are dated sporadically throughout the 10-year period that show children and adults in a field, within a building and outside of the mobile home which all show a location via an apple phone of the same general location.

2) Statutory Declaration
Statutory declaration from Rueben Walker, the occupier of Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE, dated 7th May 2024 signed and witnessed.

In summary the declaration

- Mr Walker states that they live at Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE.
- Mr Walker states that a caravan stood on the site prior to 2010 occupied by a family friend who moved on, and the site has since been occupied since August 2010 by Mr Walker and his wife.
- Mr Walker states that the land was owned by his mother Ann Walker up until 21st September 2022 and gifted the land to Mr Walker and his wife on that date.
- Mr Walker refers to a land registry office copy accompanying the application that show Mr Walker and his wife as the owners.
- Mr Walker refers to copies of council tax bills provided between 1 April 2013 to 31 March 2024 and details they evidence occupation of the mobile home during the relevant period.
- Mr Walker refers to electricity bills provided between 30 January 2012 to December 2023
- Mr Walker refers to BT bills provided addressed to Christine Walker (wife) between 2 October 2011 and 2 January 2016.
- Mr Walker refers to Europasat invoices provided between 27th January 2014 and 21 August 2015.
- Mr Walker refers to EE invoices provided between 4th December 2022 and 5 January 2023
- Mr Walker details that the above accompanying evidence demonstrates the permanence of the mobile home and service supply and the continuous occupation of the mobile home on the land since 2010.

3) Statutory declaration
Statutory declarations from Christine Walker, the occupier of Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE, dated 7th May 2024 and 8th November 2024 signed and witnessed.

In summary the declarations state that
- Ms Walker states that they live at Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE.
- Ms Walker states the declarations made by Mr Reuben Peter Walker are true.

4) Statutory declarations from Ian Walker, dated 4th November 2024 signed and witnessed.

In summary the declaration states that
- Kimberley is a good friend of Mr and Mrs Walker
- Kimberley has frequently visited Mr and Mrs Walker at Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE since 2010.
- States she has visited approximately 10 - 14 times a year
- Confirms that Mr and Mrs Walker have lived at the address continuously over this period.
- Confirmed that during the Covid 19 pandemic visited approximately once every 4-6 weeks when lawful to do so returning to regular visits on relaxation of visiting rules.
- Confirmed land used to below to Ian and Mr Walkers parents and was transferred in ownership on around 21 September 2022.

5) Statutory declarations from Kimberley Paisley, dated 4th November 2024 signed and witnessed.

In summary the declaration states that
- Ian is the brother of Mr Walker
- Ian has frequently visited Mr Walker at Majors Lodge, next to Dawsons Farm, Puddock Road, Warboys, Huntingdon PE28 2UE since 2010.
- States he has visited approximately 12-16 times a year
- Confirms that Mr and Mrs Walker have lived at the address continuously over this period.
- Confirmed that during the Covid 19 pandemic visiting was restricted but when lawful they did visit.
- Confirmed land used to below to Ian and Mr Walkers parents and was transferred in ownership on around 21 September 2022.

6) Email from Education Transport Team
The application is accompanied by an email from the Education Transport Team to the applicant that confirms that the education transport service was used from Majors Lodge, Puddock Road, Warboys PE28 2UE to a local school for a young child between 01/09/2017 to 31/07/2022.

7) Europasat Broadband Bills covering the following dates invoiced to Christine Walker, Majors Lodge (next to Old Dawsons Farm) Puddock Road, Warboys;
- 27th Jan 2014 to 26th February 2014
- 4th May 2014 to 3rd June 2014
- 4th July 2014 to 3rd August 2014
- 4th September 2014 to 3rd October 2014
- 19th January 2015
- 4th April 2015 to 3rd October 2015

8) Council Tax Bills
The application is accompanied by Council Tax Bills for Mr Walker, Mobile Home at Dawsons Farm, Puddock Road, Warboys for the periods;
- 1st April 2013 to 31st March 2022

And

Council Tax Bills for Mr Walker and Mrs Walker, Majors Lodge, Dawsons Farm, Puddock Road, Warboys for the periods
- 1st April 2022 to 31st March 2024
- 1st April 2024 to 31st March 2025

9) Electricity Bills

The application is accompanied by electricity bills addressed to Mr R Walker, Maybush Farm Lodge, Puddock Road, Warboys PE28 2UB but relating to Majors Farm, Warboys, Cambridge PE28 2UE and then addressed solely for Majors Farm, Warboys, Cambridge PE28 2UE for the period;

- Southern Electric 27th July 2011 to 29th July 2017
- Southern Electric 21 October 2017 to 24th November 2017
- Powershop - 8th November 2017 to 14th July 2019
- So Energy - 15th July 2019 to 12th May 2020
- Screenshot of confirmation that electricity supply is moved to Yorkshire Energy as of 13th May 2020
- Screenshot of Energy Bill notification available at Majors Lodge, Puddock Road dated
- 13/06/2020
- 10/07/2020
- 13/08/2020
- 13/09/2020
- 13/10/2020
- 13/11/2020
- Bank Statement showing direct debit payment to SO energy dated
- 09/06/2020
- Bank Statement showing direct debit payment to Yorkshire Energy Leeds dated
- 11/07/2020
- 13/08/2020
- 14/09/2020
- 13/10/2020
- 13/11/2020
- Screenshot of confirmation that electricity supply is moved to Scottish Power as of 6th December 2020.
- Scottish Power Bills addressed to Christine Walker, Majors Lod, Puddock Road, Warboys for the periods 6th December 2020 to 3rd August 2021
- Green energy statement addressed to Mrs Christine Walker, Majors Lodge, Puddock Road PE28 2UA for the period 4th August 2021 to 4th September 2021
- Shell Energy statement addressed to Mrs Christine Walker, Majors Lodge, Puddock Road PE28 2UA for the period 27th September 2021 to 10th December 2023
- Electricity bills from Shell Energy between
- 30th September 2021 to 1st April 2022
- 9th April 2022 to 1st February 2023
- 10th February 2023 to 1st February 2024
- 10th December 2023 to 10th Jan 2024
- 12th Jan 2024 to 8th Feb 2024
- Electricity Bills from Octopus energy between
- 8th February 2024 - 5th July 2024
- Electricity Bills from Outfox Energy between
  21st June 2024 to 20th November 2024

10) Landline Bills

The application is accompanied by Landline bills for BT addressed to Mrs Walker, Majors Lodge, Puddock Road, Warboys dated;

- 2 Oct 2011 to 2 Aug 2012
- 2 Nov 2012 to 2 Sep 2013
- 2 Apr 2014 to 4 May 2015
- 2 Jul 2015 to 2 Nov 2015
- 2 Jan 2016

11) Mobile Phone Bills

The application is accompanied by Mobile Phone Bills EE addressed to Mr Reuben Walker, Majors Lodge, Puddock Road, Warboys dated;

- 4 Dec 2022 to 4 Dec 2023

12) Land Registry Title Deed CB139852

The application is accompanied by a HM Land Registry register of title CB139852 for Land on the south- east side of Dawsons Farm, Puddock Road, Warboys. This details that as of 21st September 2022 the applicant and his wife were the holders of the Title absolute. The register is not accompanied by a registry plan.

13) Photo dated 18th Jan 2022 and location stamped at application site.

14) Photo dated 6th May 2024 and location stamped at application site.

15) Document containing photographs on the following dates and location stamped at the application site

- 20 Oct 2014
- 14 Dec 20214
- 11 Jan 2015
- 29 March 2015
- 12 May 2015
- 19June 2015
- 17 August 2015
- 14 Nov 2015
- 24 Feb 2016
- 25 May 2016
- 9 June 2016
- 14 Sept 2016
- 4 Oct 2016
- 18 Nov 2016
- 18 Dec 2016
- 9 Jan 2017
- 9 Feb 2017
- 28 May 2017
- 6, 18 Sept 2017
- 15 Nov 2017
- 30 Jan 2018
- 7 Feb 2018
- 28 March 2018
- 21 July 2018
- 24 Sept 2018
- 26 Oct 2018
- 5 Jan 2019
- 9 Feb 2019
- 11 Feb 2019
- 18 March 2019
- 18 April 2019
- 4 August 2019
- 3 Sept 2019
- 23 Oct 2019
- 16 Jan 2020
- 13 Feb 2020
- 11 March 2020
- 20 April 2020
- 21 June 2020
- 13 July 2020

- 8 August 2020
- 30 Sept 2020
- 15 Oct 2020
- 30 Nov2020
- 13 Dec 2020
- 22, 23 Jan 2021
- 5 Feb 2021
- 3 March 2021
- 8 April 2021
- 13 May 2021
- 5, 16, 19 June 2021
- 8 July 2021
- 27 Aug 2021
- 20 Sept 2021
- 11 Oct 2021
- 3 Nov 2021
- 13 Dec 2021
- 24 Jan 2022
- 11 Feb 2022
- 9 May2022
- 26, 30 June 2022
- 14 July 2022
- 4 Sept 2022
- 19 Oct 2022
- 2 Nov 2022
- 31 Dec 2022
- 28 Jan 2023
- 18 March 2023
- 8 May 2023
- 21 July 2023
- 3 Aug 2023
- 24 Oct 2023
- 01 Feb 2024
- 29 May 2024
- 25 Aug 2024
- 7 Oct 2024
- 25 Oct 2024
- 5 Nov 2024

SUMMARY OF ISSUES

The onus of proof in a CLED application is on the applicant, who must prove their claim 'on the balance of probabilities' (not the stricter criminal test of 'beyond reasonable doubt').

Paragraph 006 of the Planning Practice Guidance states that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The main issue is whether, on the balance of probabilities, the breach of planning control for the residential use of the mobile home as a main dwelling occurred for more than 10 years before the date of the application and has continued over that period. If so, the breach of planning control has succeeded in being immune from enforcement action by the Local Planning Authority.

The submitted Location Plan outlines a parcel of land off Puddock Road but does not clearly indicate the mobile home which is subject to this application. However, the submitted aerial photos indicate the mobile home which is subject to this application can be seen as the most southeast mobile home within the red line of the location plan.

The submitted evidence relies on utility bills, council tax bills, aerial photos and screen shot personal photos. The Council's records show full Council Tax has been paid for the mobile home since April 2013. It appears that previously a different mobile home was at the site in the same location but was replaced at some point between 2009 and 2013 to the current mobile home which appears on the HDC aerial imagery since. As part of a Council enforcement case in 2011, it was claimed by a member of the public that a replacement mobile home had been delivered to the site at the end of summer 2010. The physical presence of the mobile home does not appear to be disputed by the neighbour, and given the above, it is considered more than likely that the mobile home has been in place for more than 10 years.

In terms of the residential occupation of the mobile home, the 23/00799/CLED and 24/00957/CLED application contained significant gaps in the evidence which raised doubt over whether a residential use has occurred for a continuous period of 10 years. This application has sought to address these gaps in evidence with the addition of utility bills, bank statements, photographs and further statutory declarations from family members and friends which are sworn and dated.

Whilst the neighbour representation states that there was no activity at the site following the refusal of 20/02460/FUL this is not evidenced, and utility bills have now been provided to cover this period of time. Additional statutory declaration addresses this period as that of Covid 19 where movement and visits were restricted and therefore it was likely that there would be little in the way of visits to and from the site as a result of the restrictions. It is recognised that Council Tax has been fully paid for 10 years. However, payment of Council Tax itself does not demonstrate continuous residential occupation. The application remains accompanied by two statutory declarations, stating occupation of the mobile home has been continuous for 10 years that are signed, in addition to further declarations that support the claim and cover why visits were a minimum from those individuals during 2020. All statutory declarations have been witnessed and dated and therefore afforded weight.

In the previous application the applicant failed to demonstrate through evidence that the mobile home has been used continuously for residential purposes between 2010-2022. Photos that accompany the application were of sporadic intervals and mostly show areal views. There also remained gaps in the bills, which the applicant claims were due to not needing those utilities or that the particular company went into administration, and officers commented that, it would still be expected to submit bank records of payments as evidence of payment. It was highlighted within the previous officer report that the relevant time period is from May 2014, and the bills submitted only started in 2011 which is not consistent with the time period from 2010 onwards. Officers however feel that the lack of bills prior to the relevant date should not form part of the assessment of the application as they are not required.

Officers consider that the new information submitted covers the deficiencies in evidence for the previous applications. The inclusion of bank statements covering the period of electricity bills previously absent, and photos taken at the site (location stamped) are regular and consistent with continuous residential occupation. The additional statutory declarations, bills, screenshot of text conversation regarding water bills and photos offer an alternative narrative to the claim of the third party of occupation of the site during 2020 and are considered to address the inconsistencies previously raised by the third party.

Taking into account the entirety of the evidence submitted by the applicant and assessed on 'the balance of probabilities' (not the stricter criminal test of 'beyond reasonable doubt), the application is considered to demonstrate that residential occupation of the mobile home has occurred continuously for a period of 10 years.

CONCLUSION

The application is submitted under Section 191 of the Town and Country Planning Act, as amended. It seeks to demonstrate that the planning unit edged in red on the plan attached to the application has been occupied continuously for a period in excess of 10 years as a residential dwelling.

Officers have assessed the evidence submitted as listed above alongside records held by the local authority. The LPA consider that the 10-year period of occupancy between the 5th December 2014 and the 5th December 2024 has been sufficiently evidenced.

Therefore, the evidence submitted on the balance of probabilities supports the continued residential occupancy for a period in excess of 10 years.

It is therefore recommended that the Certificate for the lawful existing use of the mobile home within the red line map attached is granted.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388424 and we will try to accommodate your needs.

CONTACT OFFICER:
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