

# GEORGE F. WHITE

RESIDENTIAL . COMMERCIAL . RURAL . DEVELOPMENT

## PLANNING STATEMENT

Land at Leamside, Houghton le Spring  
November 2022

**Prepared by**

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## INTRODUCTION

- 1.1 George F. White (Planning, Architecture and Development) have been instructed by the Client, Mr Walker to submit a Certificate of Lawfulness of Existing Use or Development (CLEUD) in respect of the siting of a caravan for residential purposes at Leamside, Houghton le Spring.
- 1.2 This Planning Statement is structured as follows;
- Section 2: provides a description and analysis of the site and its surroundings as well as discussing the planning history of the site;
  - Section 3: outlines the legislation and Government guidance relevant to the application;
  - Section 4: sets out the grounds on which the CLEUD is made, setting out relevant evidence;
  - Section 5: Draws conclusion to the overall findings;

## SITE AND SURROUNDINGS

- 2.1 This section of the Planning Statement provides details of the status of the site, its history and context.
- 2.2 The application site ('the site') is located to the north of Leamside, approximately 3 miles to the south west of Houghton le Spring. The site measure approximately 350sqm and currently comprises a caravan and yard area.
- 2.3 The site is bound to the north and west by agricultural land and buildings and there is a stables/agricultural building located to the south beyond of which is a hedgerow and further agricultural land. The east of the site is more residential/commercial in character and the Three Horse Shoes and car park lie close to the east with access taken from Pithouse Lane to the south east.



Figure 1: Site Context

## PLANNING HISTORY

- 2.4 The site has been subject to the following applications;
  - 4/03/00129/FPA | Erection of extension to existing stable block. Refused 10<sup>th</sup> July 2003.
  - 4/97/00075/FPA | Erection of agricultural building and stables for private use. Refused 29<sup>th</sup> May 1997.

## LEGISLATION

### Section 191 of the Town & Country Planning Act 1990

#### 3.1 Section 191: Certificate of lawfulness of existing use or development states:

1) *If any person wishes to ascertain whether—*

*(a) any existing use of buildings or other land is lawful;*

*(b) any operations which have been carried out in, on, over or under land are lawful;*

*(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.*

*He may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.*

2) *For the purposes of this Act uses and operations are lawful at any time if—*

*(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*

*(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

4) *If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matters described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*

5) *A certificate under this section shall—*

*(a) specify the land to which it relates;*

*(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);*

*(c) give the reasons for determining the use, operations or other matter to be lawful; and*

*(d) specify the date of the application for the certificate.*

6) *The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.*

7) *A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission— a. section 3(3) of the Caravan Sites and Control of Development Act 1960; b. section 5(2) of the Control of Pollution Act 1974; and c. section 36(2)(a) of the Environmental Protection Act 1990.*

### Time Limits

- 3.2 The Town and Country Planning Act introduced a rolling time limit within which planning authorities can take planning enforcement action against breaches of planning control. The time limits are:
- 4 years for the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land. This development becomes immune from enforcement action four years after the operations are substantially completed.
  - 4 years for the change of use of a building, or part of a building, to use as a single dwelling-house. This use becomes immune from enforcement action once the unauthorised use has continued for four years without any enforcement action being taken.
  - 10 years for all other development. The ten year period runs from the date the breach of planning control was committed.
- 3.3 Once these time limits have expired the development becomes lawful in terms of planning.

### National Planning Practice Guidance

- 3.4 The NPPG states the following in relation to Lawful Development Certificate Applications;
- “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.”*
- 3.5 However, in the case of applications for an existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability. As a result, the local planning authority will need to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or process.

## GROUNDS FOR APPLICATION

- 4.1 This section sets out the evidence which demonstrates that the site has been used for the siting of a caravan for residential purposes in excess of 10 years.
- 4.2 In accordance with the provisions of Section 191 of the Act, the evidence in support of the CLEUD is set out below.
- 4.3 Whilst there is a planning history relating to the use of the site for stabling, none of these applications were subsequently approved nor come forward and it should be noted that this CLUED relates to the yard area only and excludes the existing building to the south which is indeed used as stables/agriculture.
- 4.4 Whilst there are stables located close to the south, our client has used the yard for the siting of a caravan. The below image provides early evidence of this showing the caravan in situ dated 09/08/2012.



Figure 2: Google earth imagery (2012)

- 4.5 It is my understanding that the time limit within which planning authorities can take planning enforcement action is 10 years in this case starting from the date the breach of planning control was committed.
- 4.6 This statement provides the necessary evidence to show that the area of land in question has been continuously used for the siting of a caravan for more than 10 years and our client wishes to regularise this situation.



- 4.7 Since the above image was taken, there are further google earth images dated 15/04/2014, 24/04/2015, 17/07/2017, 27/05/2018, 30/05/2020, 17/07/2021 and 03/2022. All of which show the caravan in situ as demonstrated. A site visit would also confirm that the site continues to be used for the siting of a caravan.



Figure 3: Google earth imagery (2014)





Figure 4: Google earth imagery (2015)



Figure 5: Google streetview imagery (April 2016)



Figure 6: Google streetview imagery (August 2016)

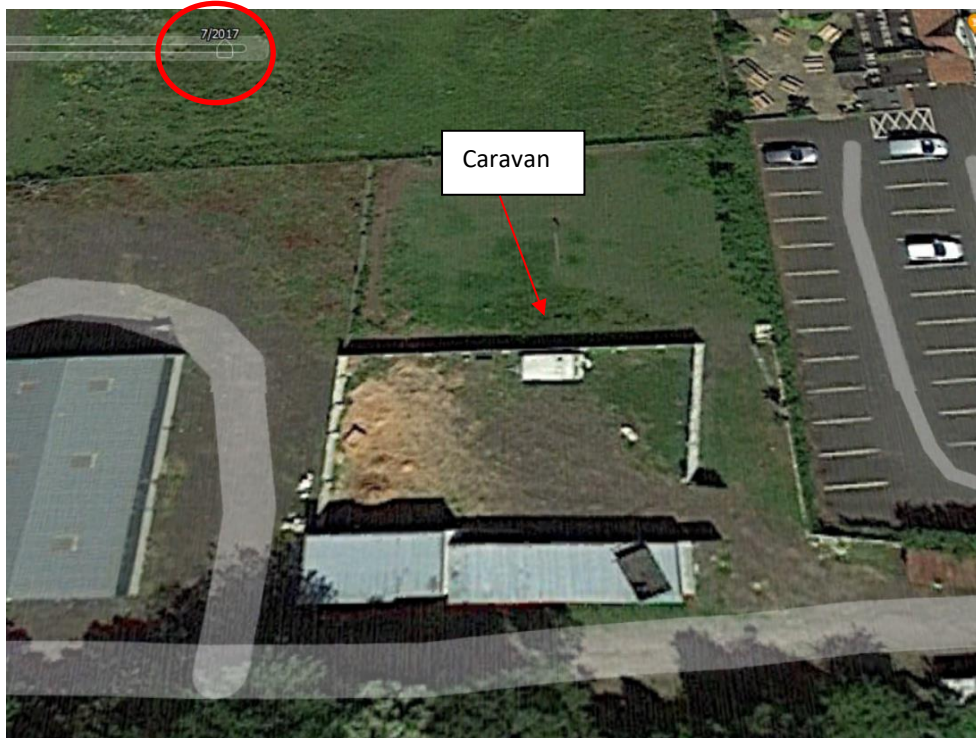


Figure 7: Google earth imagery (2017)





Figure 8: Google streetview imagery (2017)



Figure 6: Google earth imagery (2018)



Figure 7: Google earth imagery (2020)

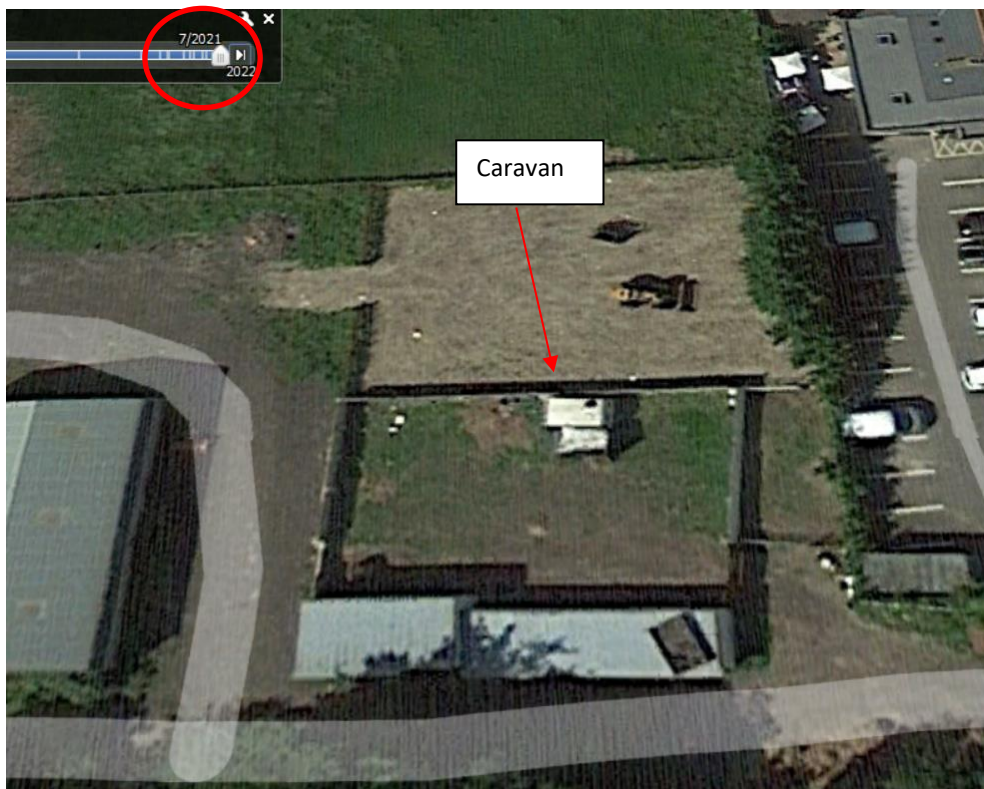




Figure 8: Google earth imagery (2021)



Figure 9: Google earth imagery (2022)

- 4.8 It can therefore be concluded from the evidence provided that the area in question has clearly been used for the siting of a caravan on a permanent and continuous basis in excess of 10 years.
- 4.9 In assessing the evidence contained in this statement, the Local Planning Authority must consider “the balance of probability” which is the relevant test of evidence on such matters as set out in Annex A of Circular 10/97. The Circular confirms that this test will be applied accordingly by the Secretary of State in any appeal against the decision of an LPA. Finally, paragraph 8.15 of Annex A states that, “if the LPA have no evidence of their own, or 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 is sufficiently precise and unambiguous to justify the grant of a certificate “on the balance of probability”.

## CONCLUSION

- 5.1 George F. White (Planning, Architecture and Development) have been instructed by the Client, Mr Walker to submit a Certificate of Lawfulness of Existing Use or Development (CLEUD) in respect of the siting of a caravan at Leamside, Houghton le Spring.
- 5.2 In respect of the evidence presented to the Council in relation to this Lawful Development Certificate, it should be concluded by the LPA that the yard area has been used for the siting of a caravan for in excess of 10 years. We would respectfully request that a Certificate of Lawfulness be granted.

