

# LONDON BOROUGH OF ENFIELD

## PLANNING COMMITTEE

**Date :** 27<sup>th</sup> June 2017

**Report of**  
Assistant Director –  
Regeneration and Planning

**Contact Officer:**  
Andy Higham  
Mr S. Newton Tel: 020 8379 3851

**Ward:** Chase

**Application Number :** 17/01439/CEU

**Category:** Certificate of Lawfulness

**LOCATION:** 21 Strayfield Road, Enfield, EN2 9JF

**PROPOSAL:** Use of land as a caravan site.

**Applicant Name & Address:**

Felix Connor  
Green Planning Studio  
Unit D, Lunesdale  
Upton Magna Business Park  
Shrewsbury  
SY4 4TT

**Agent Name & Address:**

Matthew Green  
Green Planning Studio  
Unit D, Lunesdale  
Upton Magna Business Park  
Shrewsbury  
SY4 4TT

**RECOMMENDATION:**

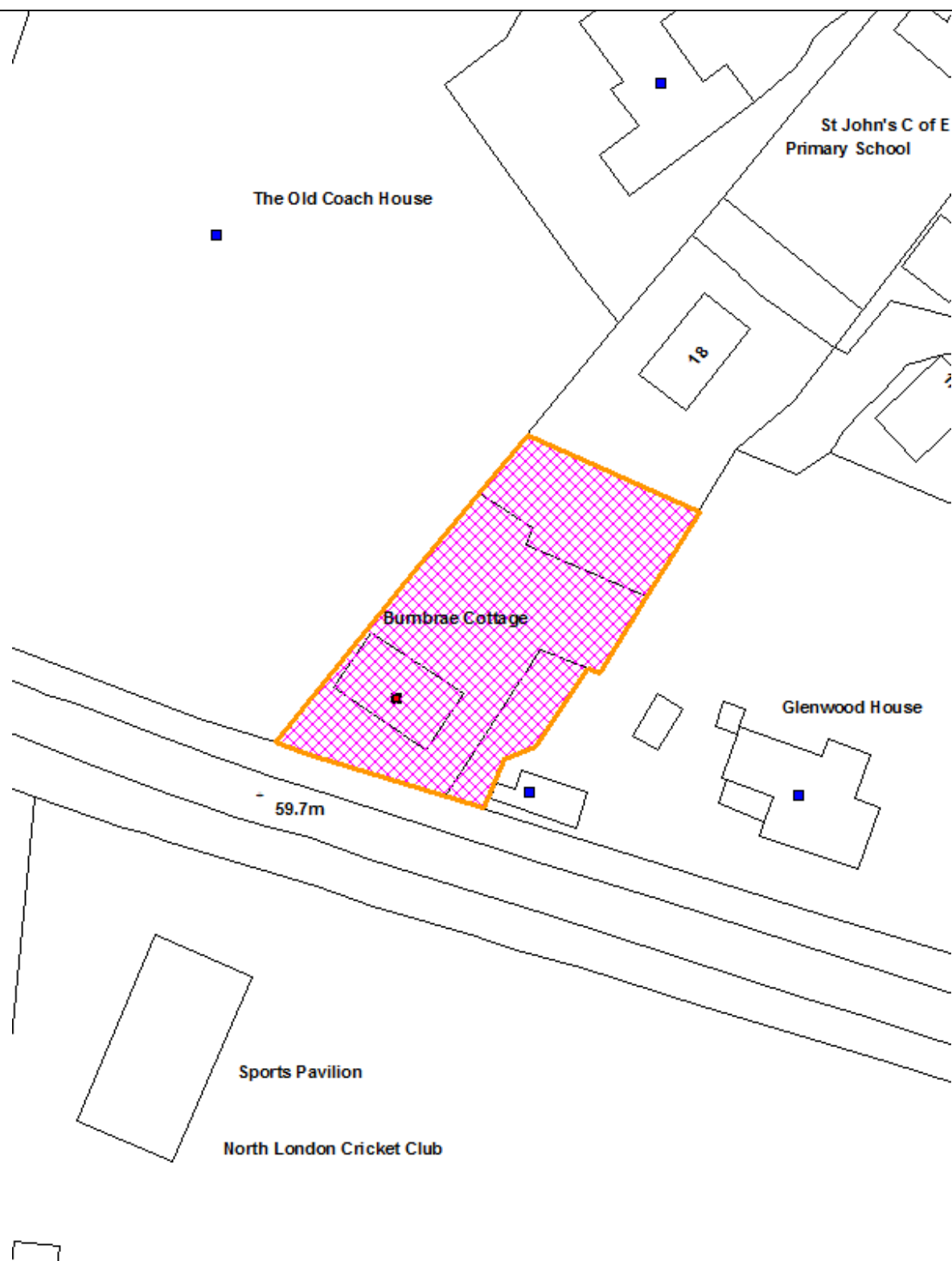
That a Lawful Development Certificate be **GRANTED**.

**NOTE FOR MEMBERS:**

A proposal of this nature would normally be considered under delegated authority because it is a matter of fact as to whether or not the development has taken place. However, this application has been called in by Cllr Dines.

Members should also note that the applicant has encroached onto land immediately to the west, which is Council-owned. This matter is currently being dealt with by Legal Services and Property Services. The application site boundary ("red line") as shown on the submitted Ordnance Survey identifying the site, is correct and does not include the land encroached upon. Members may only have regard to the red line area.

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## **1. Site and Surroundings**

- 1.1. The application site comprises of land on the northern side of Strayfield Road, formerly part of St John's Vicarage to the east. Immediately to the north is St Johns Caravan Park, accessed via Theobalds Park Road.
- 1.2. The site has been cleared of all vegetation, inclusive of all of the hedgerow fronting Strayfield Road and along the flank boundaries, and a new access, centrally located along the site frontage, created onto Strayfield Road. The hedgerow has been replaced with non-native species.
- 1.3. The site falls within the Metropolitan Green Belt and the Clay Hill Conservation Area.

## **2. Proposal**

- 2.1. A Certificate of Lawfulness ("LDC") is sought to confirm that the use of the site for the siting of mobile homes on the land is lawful by virtue of the activity having taken place in excess of 10 years prior to the date of the application being made and therefore does not require planning permission. If established, the use would also be immune from enforcement action.

## **3. Relevant Planning Decisions**

- 3.1. The site was formerly part of the St John's Caravan Park for which an application for an Existing Use Certificate (EUC/81/0002) was made on 8 May 1981 to demonstrate that the land which was being used for the parking of caravans, was immune from enforcement action by virtue of the use having commenced more than 10 years prior to the date of that application. The Certificate was granted on 10 July 1981. As part of the suite of documents provided to support the application, a copy of the caravan licence was provided which stated that the maximum number of caravans to be stationed on the site was twenty.

## **4. Consultation**

- 4.1. In accordance with the Town and Country Planning Development Management (Procedural) Order 2015, no consultation is required in connection with applications for Certificates of Lawful Development but the Local Planning Authority ("LPA") may choose to notify neighbours if there is a reasonable prospect that they may have relevant information to the application. As such, 28 neighbouring or nearby properties were notified, with comments received from the occupiers of 2 Astley House and Glenwood House, raising the following points:

*Astley House, 29 Strayfield Rd*

- Object to the site becoming a caravan site.
- It has always been the site of 1 mobile home (Burnbrae Cottage).
- The area has been enlarged without planning permission or notifying neighbours.

- Trees have been removed from the conservation area and dumped in the field.
- The sewers, including those from Rossendale Close, run under the newly extended boundary.
- Close to adjoining properties
- Conflict with local plan
- Information missing
- Loss of privacy
- Out of keeping and character
- overdevelopment
- A covenant exists which states that the homes can only be sold to the over 55's, therefore it can't be used for migrant workers or traveller purposes as mentioned.

#### *Glenwood House*

- In time of residence in Strayfield Rd (25 years), two mobile homes have occupied the site for at least 10 years
- The consultation letter refers to "caravan site", which is incorrect as they are mobile homes, being of a static or permanent nature. Caravans we would associate with transient/temporary accommodation
- The two caravans recently sharing the site with the relocated mobile home constitute temporary additions dating from August 2016 following the sale of the site to the current owner and have not been used for accommodation.

### 5. **Relevant Policy**

#### 5.1. Not applicable

### 6. **Analysis**

- 6.1. In considering an LDC application for an existing use or activity, the onus is entirely upon the applicant to provide evidence which establishes that on the balance of probabilities, the development is lawful. The evidence must demonstrate that the carrying out of the proposal in question would have been lawful at the date of the application, although the courts have held (*FW Gabbittas v SSE & Newham LBC [1985] JPL 630*) that the appellant's own evidence does not need to be corroborated by independent advice in order to be accepted. If the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less probable, there is no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous.
- 6.2. The issue for the purposes of this application is whether or not the use has become immune from enforcement action by virtue of having continued uninterrupted for a 10 year period prior to the date of the application (06/04/2017), having regard to the test of "balance of probabilities".
- 6.3. In support of the application, the applicant has provided a supporting statement which includes the following:
  - a. A copy of the 1981 Existing Use Certificate; and

- b. A Statutory Declaration of David Vyse, owner of land to the south of the site.

*1981 Established Use Certificate*

- 6.4. The 1981 Certificate is only useful in that it confirms that the application site was once part of the St John's Caravan Park site and had benefitted from immunity from enforcement. Aerial photography from 1981 would appear to confirm that on the part of the site which is now subject to the current application, there were two larger structures on the site, one being Burnbrae Cottage, towards the southern boundary, and one other structure consistent with the size of the mobile homes on the wider St John's site. Two smaller structures are also visible, which is consistent with the size of garden sheds. Eighteen caravans were sited on the part of the site outside of the redline area for the current application.

*Statutory Declaration of David Vyse*

- 6.5. The Statutory Declaration from Mr Vyse advises the following:
- He occupies (and his father before him) land and stables on the southern side of Strayfield Rd since 1974 and land immediately to the west of the site.
  - He visits the land and stables almost daily.
  - Horses are exercised along the lane immediately adjoining the site and he passes the site on many occasions.
  - He would have to occasionally access the site to reclaim horses that had escaped his land and could view the caravans situated on it.
  - He assumed that Mr Bass (the previous owner of the site) lived in one caravan and assumes that "the others" were either vacant or occupied by persons of Mr Bass' family.
  - He confirms that there were also a few dilapidated wooden buildings on the site, which was considerably overgrown.
- 6.6. Mr Vyse's declaration is only useful insofar as identifying that there was more than one caravan on the site, however, no dates are provided to confirm the relevant 10 year period as this activity may have ceased within the 10 year period necessary to prove the current application.

*Evidence Held by the Council*

- 6.7. As advised above, if the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less probable, there is no good reason to refuse the application
- 6.8. The Council holds limited information in relation to the site due to it, until recently, not being highly visible from the public realm. Aerial photography, as discussed above, confirms the siting of structures within the required time period and this is corroborated by the two neighbours, although there is a discrepancy as to the number of caravans / mobile homes that have been stationed on the site.
- 6.9. Other matters raised, in relation to neighbour amenity, impact on the sewer, the removal of vegetation, and existing covenants are matters which cannot

be considered under this type of application. The use of land for the purposes of siting caravans is controlled by relevant planning legislation, whereas the physical standards and layout, management, amenities and other standards are controlled by a site licence issued by the Council under the Caravan Sites and Control of Development Act 1960 (as amended).

### Other Matters

- 6.10. For clarity, the legal definition of a caravan is provided at s29(1) of the 1960 Act as:

*"... any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted but does not include:*

- a) Any railway rolling stock which is for the time being on rails forming part of a railway system, or*
- b) Any tent."*

- 6.11. The above was amended by s13(1) of the Caravan Sites Act 1968:

*"A structure designed or adapted for human habitation which:*

- a) Is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices;*
- b) Is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or 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 moved on a highway when assembled."*

- 6.12. A caravan therefore does not necessarily have to have wheels in order to be towed by a car or other vehicle. A mobile home, a caravan holiday home, and a touring caravan are all capable of falling within the legal definition providing that they retain the element of mobility. The existing structures on site do retain the element of mobility.

## **7. Conclusions**

- 7.1. Although the evidence submitted is not extensive, it is sufficient to demonstrate, in accordance with the relevant test, that the land has been used for the siting of mobile homes/caravans for a continuous period of at least 10 years prior to the date of the application.

## **8. Recommendation**

- 8.1. Having regard to the above, it is considered that a Lawful Development Certificate should be granted for the following reason:

1. The Local Planning Authority is satisfied that on the balance of probabilities, the land at 21 Strayfield Road has been used for the stationing of caravans for at least 10 years prior to the date of application (06/04/2017) and would therefore be immune from enforcement action.



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Notes:

Client:	Felix Connor	Scale:	@ A3
Project title:	Bumbrae Cottage	Project:	16_810_CONN23
Drawing title:	Location Plan	Drg. No:	16_810_001

Green Planning Studio Ltd  
 Directors : Matthew Green BA, Ruth Reed BA, DipArch, MA, PCoCed, HonFRAS, FRRBA, Michael Rudd BSc(Hons), MSc, LL.M, PgDip Law, FGS  
 Reg. No: OC08774963

GreenPlanningStudio

Unit D Lunsdale  
 Upton Magna  
 Business Park  
 Shrewsbury  
 SY4 4TT

t: 01743 709364  
 f: 01743 709385  
 w: www.greenplaning.co.uk  
 e: applications@gpsltd.co.uk

**RIBA** **Chartered Practice**

Rev.	Date	Amendments	Author
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