

Delegated Report

Planning Ref: 23/00190/CLE

Applicant: Mr Phil Hill

Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Bank Farm Shenton Lane Dadlington

Proposal: Lawful Development Certificate to establish the existing use of static caravan as primary and permanent residential dwelling (Use Class C3) with associated access, and amenity space

1. Recommendations

1.1. Refuse Certificate of Lawful Existing Use

2. Planning application description

2.1. This is an application for a Lawful Development Certificate for an existing use to confirm, on the balance of probabilities, that an existing static caravan and its associated access, and private amenity space have been used for a primary residential use (Use Class C3) at Bank Farm, Shenton Lane, Dadlington for a continuous period of ten years or more.

2.2. According to the submitted Caravan Plan and Elevation plan, the caravan has five bedrooms and externally measures 10.5m in width x 3.7m in depth, with a maximum height of 2.7m. The caravan is located on the north-western side of the site.

2.3. The following documents/information have been submitted to support the application:

- Block Plan C3
- Caravan Plan and Elevation
- E.ON Bills 2013 – 2020
- E.ON Bills 2021 – 2023
- GP Registration Details
- Medical Card 2011
- Photos
- Severn Trent Water Email
- Site Location Plan
- Statutory Declaration
- Supporting Statement Feb 2023
- Utility Bills – Proof of Address
- Water Bills 2012 - 2023
- Water Plus Account since 17 April 2015

2.4 The GP Registration Details and Medical Card 2011 have not been formally submitted at the request of the Applicant in the interests of data protection.

3. Description of the site and surrounding area

3.1. The application site is situated in an area of countryside, surrounded by open fields approximately 0.5 miles from Dadlington. The site is accessed via Shenton Lane, which is an adopted, unclassified road subject to a 60mph speed limit. Bank Farm is adjacent to the confluence of Fenn Lanes, which is also an adopted, unclassified road subject to a 60mph speed limit, and Shenton Lane.

4. Relevant planning history

4.1 N/A.

5. Publicity

5.1. The application is for a Certificate of Lawful Existing Use and no publicity is necessary. Nevertheless, a site notice was posted in the vicinity of the site.

5.2. No responses were received.

6. Consultation

6.1. The application is for a Certificate of Lawful Existing Use and no consultation is necessary.

6.2. However, Sutton Cheney Parish Council have expressed concerns that the application site is not suitable for residential uses.

6.3. Historic England has not commented on the application and Leicestershire County Council's Historical and Natural Environment Team have no objection to the scheme.

7. Policy

7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and Section 191 of the Town and Country Planning Act 1990, as amended by Section 10 of the Planning Compensation Act 1991, provide advice and guidance in respect for applications for Certificates of Lawfulness of Existing Use.

7.2. Planning Practise Guidance confirms that the Applicant is responsible for providing sufficient information to support the application and that such evidence should be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

8. Appraisal

8.1. The time period for immunity from enforcement action for this breach of planning control is 10 years. As such, the key issue for consideration is whether the land and building in question have been used continuously for a residential use for a period of 10 years prior to the date of this application.

8.2. In applications such as this, if the Local Planning Authority has no evidence itself to contradict or otherwise make the Applicant's version of events less than probable, there is no good reason to refuse the application, provided that the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities.

8.3. It is against this legislative framework that the application is assessed.

8.4. Within the Statutory Declaration, the Applicant suggests that Bank Farm has been their primary place of residence since 1982. The Applicant has provided the following to confirm this:

- Electricity bills and utility bills between 2012 and 2023
- A 2014 document containing the Applicant's details and address for their registration with Barwell Medical Centre
- A letter from the NHS in 2011 in relation to the Applicant's medical card
- Photographic evidence of the caravan

- 8.5. The Planning Officer conducted a site visit on 23 March 2023, and it was considered that the site may have been used for a residential use. However, on the balance of probabilities, the Planning Officer cannot confirm whether this has been a primary use for a continuous period for over 10 years based on this site assessment.
- 8.6. Whilst the utility bills are informative, the water and electricity bills only date back to 2012 and 2013 respectively and refer to the Applicant's address as Bank Farm. On the balance of probabilities, this information does not confirm whether these charges are for the agricultural use of Bank Farm or the residential use of the site. Furthermore, the utility bills do not clarify whether the residential use on the site has been a permanent and primary residence of the Applicant for a continuous period of over 10 years.
- 8.7. In addition, there is no date on the photos that have been submitted with the application, and therefore these cannot prove that the caravan has been utilised as a permanent and primary residential use for a continuous period of over 10 years.
- 8.8. The NHS letter from 2011 for the Applicant's Medical Card highlights the Applicant's address as Bank Farm. This letter demonstrates the Applicant's ownership of Bank Farm for over 10 years. However, commercial agricultural businesses can have their own postal addresses, and therefore this information does unambiguously demonstrate that the Applicant has had a permanent residence at the site. Furthermore, the NHS letter does not sufficiently demonstrate that the Applicant has had a permanent and primary residence at Bank Farm for a continuous period of over 10 years.
- 8.9. To conclude, whilst the Council has no information to contradict the Applicant's claims, the Applicant's evidence is not considered to be sufficiently precise and unambiguous to justify the granting of a Certificate of Lawful Existing Use. On the balance of probabilities, it is not considered that the application sufficiently demonstrates that the static caravan at Bank Farm, Shenton Lane, Dadlington has been used as a permanent and primary residential use for a continuous period of over 10 years. Therefore, the application site is not regarded as lawful, and consequently, the site is not immune from Enforcement Action and a Certificate of Lawful Existing Use is refused.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.

- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The information included in the application for a Certificate of Lawful Existing Use has not provided sufficient evidence to demonstrate that the static caravan has been utilised as a permanent and primary residential use for a continuous period of over 10 years at this site. On the balance of probabilities, the use of the application site is not considered lawful, nor immune from Enforcement Action, and therefore a Certificate of Lawful Existing Use is refused.
- 10.2. It is recommended that a Certificate is refused because insufficient and ambiguous evidence has been presented by the Applicant, combined with the lack of evidence that the Local Planning Authority have in their possession, has shown that, on the balance of probabilities, the static caravan at Bank Farm, Shenton Lane, Dadlington has not been used as a permanent and primary residential use for a continuous period of over 10 years at this site.

11. Recommendation

- 11.1 **Refuse Certificate of Lawful Existing Use.**