

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

REFUSAL OF CERTIFICATE OF LAWFUL EXISTING USE

Name and Address of Applicant

Mr Phil Hill
Bank Farm
Shenton Lane
Dadlington
Nuneaton
Leicestershire
CV13 6JD

Name and Address of Agent (if any)

Simon Cheshire BA(Hons) DipTP MRTPI
Simon Cheshire Planning Ltd
34 Stanley Road
Market Bosworth
Nuneaton
CV13 0NB

Part I - Particulars of Application

Date of Application	Application No.
1 March 2023	23/00190/CLE

Particulars and location of development:

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

Bank Farm Shenton Lane Dadlington Nuneaton Leicestershire

Part II - Particulars of decision

In pursuance of its powers under Section 191 of the Town and Country Planning Act 1990 as substituted by Section 10 of the Planning and Compensation Act 1991, Hinckley and Bosworth Borough Council hereby refuses to issue a Certificate of Lawful Existing Use in respect of the use referred to in Part I above for the following reason(s):-

1. The information included in the application for a Certificate of Lawful Existing Use has not provided sufficient unambiguous 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.



Christopher Brown MRTPI
Head of Planning

Date : 9 May 2023

IMPORTANT – PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990. It would be expected that appeals are lodged within six months of the date of this notice. If the decision relates to a list building the appeal **must** be lodged within six months of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/planning-inspectorate>). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.
3. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within six weeks of the date of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review.
4. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

RNOTES (28.11.2019)