

Delegated Report

Planning Ref: 23/00465/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 (Resubmission 23/00190/CLE)

1. Recommendations

1.1. Grant 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. This application is a resubmission of the previously refused Certificate of Lawful Existing Use 23/00190/CLE. This application was refused because the Applicant did not provide sufficient unambiguous evidence to demonstrate that the static caravan had been utilised as a primary and permanent residential use of a continuous period of over 10 years at the site.
- 2.4. The following documents/information have been submitted to support the application:
 - Block Plan
 - BT Phone Bill (2017)
 - BT Phone Contract (2015)
 - Car Insurance (2023)
 - 2 DLVA Vehicle Registrations (2022)
 - DLVA Vehicle Registration (2018)
 - Driver's License (2019)
 - Electricity Bills (2013 to 2023)
 - Elevations and Floor Plans
 - GP Registration (2014)
 - Medical Card (2011)
 - Mr M J Almey Confirmation of Permanent Residence
 - Paper Driver's License (1997)
 - Planning Statement
 - Statutory Declaration from Applicant
 - Statutory Declaration from Applicant's Granddaughter

2.5. Since the previous application, the Applicant has provided the following to further support the application:

- BT Phone Bill (2017)
- BT Phone Contract (2015)
- Car Insurance (2023)
- 2 DLVA Vehicle Registrations (2022)
- DLVA Vehicle Registration (2018)
- Driver's License (2019)
- Elevations and Floor Plans
- Mr M J Almey Confirmation of Permanent Residence
- Paper Driver's License (1997)
- Statutory Declaration from Applicant's Granddaughter

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. One member of the public responded in writing to the application to confirm that that the static caravan was utilised as a permanent and primary residence between 2000 and 2010.

5.3. Another member of the public spoke to the Local Planning Authority and stated that the Applicant had not lived at Bank Farm for a continuous period of over ten years. However, this was not confirmed in writing, and the member of the public could provide any evidence or information to support their claim.

5.4. No further responses were received.

6. Consultation

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

6.2. Nevertheless, Sutton Cheney Parish Council have objected to the planning application due the negative impact this application may have on the new 1485 tourist sculpture trail.

6.3. The Planning Officer notes that the concerns of Sutton Cheney Parish Council are not considered to be material considerations within the determination of a Lawful Development Certificate.

6.4. The Local Highway Authority have stated that, based on the submitted application form, the caravan has been in-situ and using the existing access since 01 January 2000. Therefore, the Local Highway Authority do not consider the residual

cumulative impacts of the development to be severe in accordance with the National Planning Policy Framework (2021).

- 6.5. 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 Practice 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 from 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. 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.
- 8.5. The Applicant has provided a GP Registration document, which suggests that the Applicant has been registered at their medical centre since 15 December 2014. Nevertheless, the document suggests that the current home address was changed to Bank Farm, Shenton Lane, Dadlington on 22 April 2022. Therefore, this document does not unambiguously demonstrate that the static caravan, nor Bank Farm has been utilised as a primary and permanent residential dwelling for a continuous period of over ten years.
- 8.6. Nevertheless, a letter from 2011 has been submitted in support of this application regarding a medical card, which is addressed to the Applicant at Bank Farm, Shenton Lane, Dadlington. Whilst there is limited information within this letter, the document does support the argument that the Applicant may have lived at Bank Farm since 2011 in some capacity.
- 8.7. On the other hand, it is acknowledged that commercial agricultural businesses can have their own postal addresses, and therefore this information does not

unambiguously demonstrate that the Applicant has had a permanent residence at the site. Moreover, this document does not clarify whether the Applicant has lived in the static caravan within this period.

- 8.8. In addition, electricity bills have been provided for every year between 2013 and 2023. Only the letters from 2020 to 2023 are clearly addressed to the Applicant and their address at Bank Farm, Shenton Lane, Dadlington. Whilst these are useful documents, 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 electricity bills do not clarify whether the static caravan on the site has been utilised as a permanent and primary residence of the Applicant for a continuous period of over 10 years.
- 8.9. Similarly, the Applicant has provided a letter from 2023 stating that they have had car insurance for a vehicle at Bank Farm since 2019. In addition, the Applicant has provided three DVLA vehicle registration documents, two of which are from 2022 and the latter from 2018, as well as receipt for the purchase of glasses to the site from 2020, a phone line contract with BT from 2015, and a bill from BT from 2017. Although these documents demonstrate that the site is being utilised by the Applicant, they do not unambiguously confirm whether these charges and vehicles are registered to the commercial business at Bank Farm, or to the Applicant's residential use of the site.
- 8.10. On the other hand, it is noted that an email from a member of the public was submitted as part of the application that confirmed in writing that they believed that the Applicant had been a permanent resident at Bank Farm for at least the previous ten years. In addition, another member of the public confirmed via email that the static caravan was utilised as a permanent and primary residence between 2000 and 2010. Whilst these emails are not considered to be determinative, they are material considerations within this application.
- 8.11. Furthermore, two statutory declarations have been received from the Applicant and their granddaughter. The Applicant's statutory declaration states that Bank Farm has been their primary place of residence since 1982. However, this contrasts with their Application Form, which suggests that the use began at the site on 01 January 2000. This is supported by the Granddaughter's statutory declaration states that they have visited the site and had their own bedroom with the static caravan over the last 22 years. In spite of this discrepancy, both statutory declarations support the claim that the static caravan has been utilised as a primary and permanent residential use for continuous period of over ten years.
- 8.12. Finally, the Applicant has provided a paper driver's license which was valid from 1997 to 2019, as well as a current driver's license from 2019, which both have an address of Bank Farm, Shenton Lane, Dadlington. These are considered to be material considerations within this application.
- 8.13. To conclude, the Council has no information to contradict or otherwise make the Applicant's version of events less than probable. Since the previous application, 23/00190/CLE, the Applicant has provided two driver's licenses, an additional statutory declaration, and an email in writing confirming the residential use of the static caravan. A further email in support of the scheme was provided in this current application as a result of public consultation. Given the above, it is considered that, on the balance of probabilities, the static caravan at Bank Farm, Shenton Lane, Dadlington, is likely to have been utilised as a primary and permanent residential

dwelling for a continuous period of over ten years. Therefore, the site is immune from enforcement action, and a Certificate of Lawful Existing Use is granted.

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. On the balance of probabilities, the static caravan has been utilised as a permanent and primary residential use for a continuous period of over 10 years at Bank Farm, Shenton Lane, Dadlington. Therefore, it is recommended that a Certificate of Lawful Existing Use is granted.

11. Recommendation

11.1 **Grant Certificate of Lawful Existing Use.**